

DOCUMENT RESUME

ED 117 835

EA 007 893

TITLE National School Lunch Act and Child Nutrition Act of 1966. Amendments of 1975. Report on H.R. 4222, 94th Congress, First Session. Calendar No. 251.

INSTITUTION Congress of the U.S., Washington, D.C. Senate Committee on Agriculture and Forestry.

REPORT NO 94-259

PUB DATE Jun 75

NOTE 89p.; Related documents are EA 007 894-895

EDRS PRICE MF-\$0.83 HC-\$4.67 Plus Postage

DESCRIPTORS *Breakfast Programs; Elementary Secondary Education; Federal Aid; *Federal Legislation; *Federal Programs; Food Service; *Lunch Programs; Nutrition

IDENTIFIERS Child Nutrition Act 1966; *National School Lunch Act

ABSTRACT

This publication reports the considerations and actions of a subcommittee, to which was referred H.R. 4222 to amend the National School Lunch Act and the Child Nutrition Act of 1966 in order to extend and revise the special food service program for children and the school breakfast program, and for other purposes related to strengthening the school lunch and child nutrition programs. A short explanation summarizes the amendment followed by the text of H.R. 4222 with the committee amendment substitute inserted. The report then presents the background and need for legislation for the child nutrition programs. Committee considerations are summarized followed by a section-by-section analysis of the amendment. Prepared statements from persons representing government departments are included. The text of the National School Lunch Act and the Child Nutrition Act of 1966 with changes made by the amendments of 1975 concludes the report. (MLF)

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ED117835

94TH CONGRESS }
1st Session

SENATE

{ REPORT
No. 94-250

NATIONAL SCHOOL LUNCH ACT AND
CHILD NUTRITION ACT OF 1966
AMENDMENTS OF 1975

REPORT

ON

H.R. 4222

AN ACT TO AMEND THE NATIONAL SCHOOL LUNCH ACT
AND THE CHILD NUTRITION ACT OF 1966 IN ORDER TO EX-
TEND AND REVISE THE SPECIAL FOOD SERVICE PROGRAM
FOR CHILDREN AND THE SCHOOL BREAKFAST PROGRAM,
AND FOR OTHER PURPOSES RELATED TO STRENGTHENING
THE SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS

U.S. DEPARTMENT OF HEALTH,
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JUNE 26 (legislative day, JUNE 6), 1975

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1975

36-010 O

EA 007 893

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"Diet, through its effect on health and vigor, is one of the main factors in determining efficiency and thus has a great effect upon national character and national progress. . . . [This] proposition . . . finds general acceptance, but the part played by diet in determining national character has not been sufficiently emphasized."

Ellsworth Huntington
Mainsprings of Civilization (1954)

Adequacy of food is clearly the basis of a society and diet and to a large extent determines the quality of life within the society. Inadequacies of diet, especially for children, limit individual growth and development. This reduces not only individual potential, but also reduces the total potential of the society.

In a Nation such as ours, which is so blessed with a rich abundance of food and agricultural productivity, no child need be deprived of his or her opportunities for development due to a lack of a proper diet.

The school lunch and other child nutrition programs, in concert with our Nation's educational system, provide the basis for fulfillment of our Nation's goal of assuring every individual the opportunity of complete development and self-expression.

JAMES B. ALLEN, *Chairman,*
Subcommittee on Agricultural
Research and General Legislation.

(III)

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(v)

Calendar No. 251

94TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 94-259

NATIONAL SCHOOL LUNCH ACT AND CHILD NUTRITION ACT OF 1966 AMENDMENTS OF 1975

JUNE 26 (legislative day, JUNE 6), 1975.—Ordered to be printed

Mr. ALLEN, from the Committee on Agriculture and Forestry,
submitted the following

REPORT

[To accompany H.R. 4222]

The Committee on Agriculture and Forestry, to which was referred the bill (H.R. 4222) to amend the National School Lunch Act and the Child Nutrition Act of 1966 in order to extend and revise the special food service program for children and the school breakfast program, and for other purposes related to strengthening the school lunch and child nutrition programs, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass.

SHORT EXPLANATION

H.R. 4222, as amended by the Committee on Agriculture and Forestry, would—

(1) Extend through September 30, 1977, the school breakfast program.

(2) Amend—beginning June 1, 1976—the provision under which the Secretary of Agriculture issues revised income poverty guidelines for use in the child nutrition programs.

(3) Extend through September 30, 1977, the Secretary's authority to purchase agricultural commodities for donation to the child nutrition programs when acquisitions under other agricultural authorities (section 32 and price support) are not available. States which phased out their commodity distribution facilities

(1)

prior to July 1, 1974, could elect to receive cash in lieu of donated foods.

(4) Revise the special food service program for children to extend the summer food program through September 30, 1977.

(5) Revise the year-round phase of the special food service program for children to establish a child care food program to be effective through September 30, 1977.

(6) Extend through September 30, 1977, the special supplemental food program for women, infants, and children (WIC).

(7) Expand the definition of "school" under the school lunch program and the school breakfast program to include any public or licensed nonprofit private residential child care institution, including, but not limited to, orphanages and homes for the mentally retarded.

COMMITTEE AMENDMENT

The Committee amendment strikes all after the enacting clause of H.R. 4222 and inserts in lieu thereof an amendment in the nature of a substitute. The principal differences between H.R. 4222 as passed by the House of Representatives and the bill as amended by the Committee are as follows:

(1) *School breakfast program (Sec. 2)*

The *House* bill makes permanent the authorization for appropriations in the Child Nutrition Act of 1966 for the school breakfast program.

The *Committee* amendment extends the school breakfast program through September 30, 1977.

(2) *Income poverty guidelines (Sec. 6)*

The *House* bill deletes the State's option to serve reduced price lunches and provides that any child in any school in a State who is eligible for reduced price lunches under the State's income guidelines shall be served a reduced price lunch. The *House* bill also requires that, beginning with the 1976 fiscal year, State educational agencies are to establish income guidelines for reduced price lunches at levels which are 100 percent above those in the income poverty guidelines prescribed by the Secretary.

The *Committee* amendment strikes the *House* provision, but amends—beginning June 1, 1976—the provision under which the Secretary issues revised income poverty guidelines. Under the amendment, the guidelines would be based on more current data.

(3) *Waste of foods served under the school lunch program.*

The *House* bill requires that the Secretary establish procedures to diminish the waste of foods served by schools participating in the school lunch program. Under the *House* bill, senior high school students would not be required to accept foods they do not intend to eat and their failure to accept such foods would not affect the amount of payments the school receives under the National School Lunch Act.

The *Committee* amendment strikes the *House* provision.

(4) *Free lunches for children of unemployed parents (Sec. 6(c))*

The *House* bill provides that any child whose parent or guardian (providing the child's principal support) is unemployed shall be served a free lunch during the period of unemployment. The amendment is to terminate one year after enactment.

The *Committee* amendment retains the provision of the *House* bill, makes it permanent, but amends it to provide that the income of the child's parent or guardian during the period of unemployment must fall within the income eligibility criteria for free lunches.

(5) *Commodity distribution program (Sec. 10)*

The *Committee* amendment extends through September 30, 1977, the Secretary's authority to purchase agricultural commodities for donation to the child nutrition programs when acquisitions under other agricultural authorities are not available. States which phased out their commodity distribution facilities prior to July 1, 1974, could elect to receive cash in lieu of donated foods.

The *House* bill contains no comparable provision.

(6) *Required donation of certain foods (Sec. 10)*

The *Committee* amendment requires the donation to the school lunch program of cereal, shortening, and oil products at the level provided during the fiscal year 1974. Such cereal, shortening, and oil products are to be in addition to the value of commodity donations (or cash in lieu thereof) otherwise provided for in section 6 of the National School Lunch Act.

The *House* bill contains no comparable provision.

(7) *Definition of school (Sec. 9(c); Sec. 17(c))*

Both the *House* bill and the *Committee* amendment expand the definition of school under the National School Lunch Act and the Child Nutrition Act of 1966 to include any public or licensed nonprofit private residential child care institution, including, but not limited to, orphanages and homes for the mentally retarded. In addition, the *House* bill specifically names as public or licensed nonprofit private residential child care institutions "homes for the emotionally disturbed, homes for unmarried mothers and their infants, temporary shelters for runaway children, temporary shelters for abused children, hospitals for children who are chronically ill, and juvenile detention centers."

The *Committee* amendment names by way of illustration only orphanages and homes for the mentally retarded.

(8) *School lunch assistance as income or resources (Sec. 9(d))*

The *Committee* amendment provides that the value of assistance to children under the National School Lunch Act shall not be considered as income or resources for any purposes under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs.

The *House* bill contains this provision but makes it applicable only to the child care program.

(9) *Additional 5-cent reimbursement*

The *House* bill provides an additional 5-cent reimbursement for fiscal year 1976 for each lunch served to children who do not qualify for free or reduced price meals.

The *Committee* amendment strikes the *House* provision.

(10) *Extension of the summer food program (Sec. 13)*

The *House* bill extends the summer food program through June 30, 1976.

The *Committee* amendment extends the summer food program through September 30, 1977.

(11) *Regularly scheduled program requirement (Sec. 13)*

The *House* bill provides that institutions eligible for the summer food program must offer a regularly scheduled program at site locations where organized recreational activities or food services are provided for children. Under the *House* bill, the program is for children from areas where (1) poor economic conditions exist or (2) there are high concentrations of working mothers.

The *Committee* amendment retains the *House* provision but deletes the option that the children may be from non-poor areas in which there are high concentrations of working mothers.

(12) *Reimbursement rates under the summer food program (Sec. 13)*

The *House* bill provides that financial assistance to a service institution under the summer food program shall equal 80 percent of the operating costs of such institution's food service or 100 percent of such institution's cash expenditures for the operating costs of its food service, whichever is less. However, in no instance could the financial assistance exceed 80 cents for each lunch or supper served, 45 cents for each breakfast served, and 20 cents for each supplement served.

The *Committee* amendment provides that Federal assistance to service institutions under the summer food program shall equal the full cost of food service operations, not to exceed 75.5 cents for each lunch and supper, plus administrative costs not to exceed 6 cents for each meal; 42 cents for each breakfast, plus administrative costs not to exceed 3 cents for each breakfast; and 19.75 cents for each meal supplement, plus administrative costs not to exceed 1.5 cents for each meal supplement. (Under both the *House* bill and the *Committee* amendment, the maximum rates of reimbursement would be adjusted each March 1, to reflect changes in the Consumer Price Index for food served away from home.)

(13) *Advance funding (Sec. 13)*

The *Committee* amendment requires advance funding of the summer food program in an amount not less than the greater of (1) the total payment made for the same month for the previous year, or (2) 65 percent of the amount estimated by the State to be needed to reimburse service institutions for meals served in that month.

The *House* bill contains no comparable provision.

(14) *Startup costs (Sec. 13)*

The *Committee* amendment provides that funds for startup costs, not to exceed 10 percent of the Federal funds made for meals served during the previous summer, may be furnished institutions participating in the summer food program. Any such startup funds would be subtracted from payments subsequently made to participating institutions.

The *House* bill contains no comparable provision.

(15) *Administrative costs (Sec. 13)*

The *Committee* amendment provides that the Secretary shall pay to each State for administrative costs of the summer food program an amount equal to 2 percent of funds disbursed to that State for meals. However, no State would receive less than \$10,000 each fiscal year for administrative costs unless the funds disbursed for meals in that State total less than \$50,000.

The *House* bill contains no comparable provision.

(16) *Extension of the special supplemental food program for women, infants, and children (WIC) (Sec. 14)*

The *House* bill continues through September 30, 1978, the special supplemental food program for women, infants, and children (WIC).

The *Committee* amendment continues the WIC program through September 30, 1977.

(17) *Funding of the WIC program (Sec. 14)*

The *House* bill eliminates section 32 funding and authorizes direct appropriations for the WIC program in the sum of \$250 million for each fiscal year.

The *Committee* amendment also authorizes the expenditure under the WIC program of \$250 million for each fiscal year but authorizes the use of section 32 funds as under existing law.

(18) *Administrative costs under the WIC program (Sec. 14)*

The *House* bill increases the amount the Secretary is authorized to pay States for administrative costs under the WIC program from 10 to 15 percent of the funds provided under the program.

The *Committee* amendment increases the amount of administrative costs the Secretary may pay to 20 percent of program funds and defines "administrative costs" to include clinic cost and nutrition education.

(19) *Immediate funds for eligible WIC applicants*

The *House* bill provides that eligible applicant agencies shall immediately be furnished the necessary funds to carry out a WIC program.

The *Committee* amendment strikes the *House* provision.

(20) *Determination of "eligible local health or welfare agency or non-profit agency" for WIC participation*

The *House* bill defines "eligible local health or welfare agency, or private nonprofit agency" under which eligibility would be determined by the State health department or comparable State agency.

The *Committee* amendment strikes the *House* provision and, therefore, retains existing law under which the Department of Agriculture determines eligibility.

(21) *WIC advisory committee (Sec. 14)*

The *Committee* amendment requires the Secretary to appoint an advisory committee with specified membership to determine how best to evaluate the health benefits of the WIC program. The advisory committee is to submit a report to the Secretary by December 1, 1975, and the Secretary must report to Congress by March 1, 1976.

The *House* bill contains no comparable provision.

(22) *Definition of "supplemental foods" (Sec. 14)*

The *Committee* amendment redefines "supplemental foods" to provide that the contents of the food package shall be made available in such a manner as to provide flexibility, taking into account medical and nutritional objectives and cultural eating patterns. In addition, under the redefinition, the term could (at the Secretary's discretion) include commercially formulated preparations for women.

The *House* bill contains no comparable provision.

(23) *National Advisory Council (Sec. 14)*

The *Committee* amendment provides for the establishment of a National Advisory Council on Maternal, Infant, and Fetal Nutrition. The council—to be composed of 15 members and appointed by the Secretary—is to make a continuing study of the WIC program and

related programs with a view to determining how the programs may be improved.

The *House* bill contains no comparable provision.

(24) *Special milk program (Sec. 15)*

The *House* bill makes Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands eligible for the special milk program authorized by the Child Nutrition Act of 1966.

The *Committee* amendment retains this provision, but provides that in no event shall the minimum rate of reimbursement for each half pint of milk served to children exceed the cost of the milk to the school or institution.

(25) *Child care food program (Sec. 16)*

Both the *House* bill and the *Committee* amendment revise the year-round phase of the special food service program for children to establish a child care food program for children in nonresidential child care institutions. The *House* bill establishes the program on a permanent basis.

Under the *Committee* amendment, the child care food program would be authorized for the period ending September 30, 1977.

(26) *Tax-exempt status of child care institutions (Sec. 16)*

The *House* bill provides that an institution, in order to be eligible for the child care food program, must be "moving toward compliance with the requirements for tax-exempt status" under the Internal Revenue Code or currently operating a federally funded program requiring nonprofit status. Under the *House* bill, the determination whether an institution so qualified would be made by "the responsible State or local government unit."

The *Committee* amendment retains the *House* provision but provides that the institution must be moving toward compliance with the requirements for tax-exempt status "under conditions established by the Secretary."

(27) *Additional payments to "especially needy" institutions*

The *House* bill authorizes the Secretary to provide additional funding, on at least a monthly basis, to institutions determined to be "especially needy". The funding would be in the amount equal to the difference between (1) the full cost of serving meals (except equipment assistance provided under the legislation) and (2) the meal reimbursement rates under the legislation.

The *Committee* amendment strikes the *House* provision.

(28) *Advance monthly payments*

The *House* bill authorizes monthly advance payments to States for their operation of the child care food program.

The *Committee* amendment strikes the *House* provision.

(29) *Non-food assistance*

The *House* bill provides that of the sums appropriated for the child care food program and the summer food program, \$3 million shall be available for each fiscal year for non-food assistance.

The *Committee* amendment retains this provision, but provides that the money for non-food assistance shall be available only for the child care food program.

(30) *Transition amendment for the child care food program (Sec. 16)*

The *Committee* amendment provides that the regulations issued to carry out the child care food program shall be effective not later than 90 days after enactment of the bill. During the period after enactment and before the effective date of the new regulations, the *Committee* amendment authorizes the Secretary to conduct a food service program in the same manner and subject to the same conditions as the special food service program for children was conducted under section 13 of the National School Lunch Act during the fiscal year ending June 30, 1975.

The *House* bill contains no comparable provision.

(31) *Reservation of funds for equipment assistance (Sec. 18)*

The *Committee* amendment extends through September 30, 1977, the requirement that a percentage of the funds appropriated for non-food assistance be reserved for use in schools without a food service. Under the *Committee* amendment, the percentage of funds to be reserved would be reduced from 50 percent to 33 $\frac{1}{3}$ percent. In addition, schools that lack the facilities to prepare or receive hot meals would be eligible for reserved funds, along with schools that have no food service.

The *House* bill contains no comparable provision.

(32) *Nutrition program staff study (Sec. 20)*

The *Committee* amendment requires that a study be conducted by the Secretary and submitted to Congress not later than March 1, 1976, determining the level of funds needed by the States for the administration of the child nutrition programs. As part of the study, the Secretary is to examine the degree and cause of plate waste in the school lunch program.

The *House* bill contains no comparable provision.

(33) *Authorization of appropriation for the Trust Territory of the Pacific Islands (Sec. 21)*

The *Committee* amendment authorizes to be appropriated (1) for each of the fiscal years beginning July 1, 1975 and October 1, 1976, the sum of \$500,000 and (2) for the period July 1, 1976, through September 30, 1976, the sum of \$125,000 to enable the Secretary to assist the Trust Territory of the Pacific Islands in carrying out various developmental and experimental projects relating to programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966.

The *House* bill contains no comparable provision, but both the *House* bill and the *Committee* amendment make the Trust Territory of the Pacific Islands eligible for participation in the child nutrition programs.

(34) *Expansion of summer food program and child care food program (Sec. 19)*

The *Committee* amendment declares that it is the intent of Congress that the summer food program and the child care food program be made available in all institutions where it is needed. The Secretary is directed to carry out a program of information in furtherance of the policy and report his plans to expand the programs to the appropriate Congressional committees within 6 months after enactment.

The *House* bill contains no comparable provision.

BACKGROUND AND NEED FOR LEGISLATION

The child nutrition programs provide Federal cash and donated food assistance to nonprofit schools of high school grade and under and to child-care institutions to use in serving well-balanced meals and milk to children. Additional cash assistance is provided for meals and milk served free or at reduced prices to children who are determined to be unable to pay the full price under local family size and income standards established in accordance with minimum and maximum national income poverty guidelines.

The child nutrition programs are the national school lunch program, the school breakfast program, the special food service program for children, both year-round and summer, and the special milk program. They are available to over 86 percent of all schoolchildren and several hundred thousand children in day-care centers and other child-care institutions. During the school year, about 25 million children participate daily in the programs, and over a third of these children receive free or reduced price meals. The programs are supplemented by several other types of Federal cash assistance: nonfood assistance funds help needy schools acquire food service equipment; State administrative expense funds assist States in undertaking additional administrative activities under the programs; and limited amounts of funds are used for program-related nutrition education and training projects, studies and surveys of food service requirements, and special developmental projects.

The Food and Nutrition Service of the Department of Agriculture is responsible for the national administration of the programs. The programs are normally administered in cooperation with State Departments of Education. Due to restrictions in State law and to other factors, USDA directly administers the programs in private schools in several States. Participation at the local level is voluntary.

In fiscal year 1974 the programs cost \$3 billion. Of this amount, Federal funds provided \$1.7 billion. The remaining amount came from State and local funds and from payments by nonneedy children.

All the programs are authorized by the National School Lunch Act and the Child Nutrition Act of 1966, as amended. Legislation amending these Acts in recent years has broadened Federal support and involvement in the programs, especially regarding program benefits for needy children.

The Child Nutrition Act of 1966 also authorizes the special supplemental food program for women, infants, and children (WIC).

I.

The National School Lunch Act was enacted in 1946, authorizing a grant-in-aid program to States and placing responsibility for the further expansion and improvement of school lunch programs in the educational agency of each State. The Act authorized a program of cash payments to assist schools to make local purchases of food (section 4) and the procurement and distribution by the Department of Agriculture of food especially needed in lunch programs (section 6). The continued donation of food acquired by the Department under market stabilization programs also was authorized by the Act. A program of equipment assistance was also authorized (section 5).

In return for the Federal cash and commodity assistance received, participating schools were required to:

- (1) operate the lunch program on a nonprofit basis;
- (2) serve lunches meeting specified nutritional standards; and
- (3) serve lunches free or at a reduced price to needy children.

II.

The regular school lunch program makes funds available to reimburse participating schools for a portion of the cost of food in lunches served to children. Public Law 93-150, enacted November 7, 1973, authorized a reimbursement rate of 10 cents per lunch, with provision for a semiannual adjustment in the rate based on changes in the Consumer Price Index for the cost of food served away from home. Five percent increases in the index triggered corresponding increases in rates on January 1, 1974, and July 1, 1974. The reimbursement rate is currently 11.75 cents, due to the six percent increase effective January 1, 1975.

The program began in 1946 with an expenditure of approximately \$60 million the first year. The amount expended has steadily increased to an estimated \$470 million for fiscal year 1975. Funds are provided to State agencies on a national average earning factor to reimburse participating schools on a performance basis for *all* meals served to children.

III.

Agricultural commodities are donated by the Department of Agriculture to schools and institutions through State distributing agencies. Commodities are acquired under various authorities. These include section 6 of the National School Lunch Act; section 32 of the Act of August 24, 1935, as amended; section 416 of the Agricultural Act of 1949, as amended; and section 709 of the Food and Agriculture Act of 1965, as amended.

In fiscal year 1974, the value of commodities distributed to the child nutrition programs was 7.6 cents per lunch. Public Law 93-326, enacted in June 1974, establishes a 10-cent minimum value of donated foods for each lunch served in the National School Lunch Program. This amount is to be adjusted annually to reflect changes in the Consumer Price Index for food away from home. Public Law 93-150 provides permanent authority for making up commodity shortages for child nutrition programs with cash payments. In fiscal year 1975, the farm marketing and supply situation was such that all of the \$411 million worth of commodities designated for child nutrition programs were distributed in the form of commodities; no cash payments were necessary.

IV.

In 1962, a major amendment to the National School Lunch Act was passed by the Congress seeking to make the school lunch program more effective in reaching needy children with a free or reduced price lunch. A program of special cash assistance (section 11) was authorized for schools that drew their attendance from poor economic areas—schools that needed to serve a substantial proportion of their lunches

free or at an especially reduced price. These special cash assistance payments to needy schools were in addition to the section 4 food assistance payments and commodity donations and could be used to finance labor and other costs involved in serving free or especially reduced price lunches to needy children. Public Law 91-248 made the special assistance available to all schools.

While the program was first authorized in 1962, it was not funded until 1966 when the amount of \$2 million was appropriated. Funds are provided to State agencies on national average earning factors for free and reduced price lunches served to needy children in participating schools. Public Law 93-150 increased the reimbursement rate for these lunches to at least 45 cents for free lunches and 10 cents less for reduced price lunches. The Consumer Price Index adjustor also applies to rates for these lunches. The current rate, effective January 1, 1975, is 52.5 cents for a free lunch and 42.5 cents for a reduced price lunch.

Children eligible for free lunches come from families with incomes within the poverty level as prescribed by the Secretary, except that States may establish eligibility at 125 percent of that level. Schools with reduced price programs may furnish reduced price lunches to children with incomes between the eligibility for free lunches and 175 percent of the poverty level. Fiscal year 1975 obligations are projected at \$81½ million.

V.

The school breakfast program provides assistance to States through grants-in-aid and other means to initiate, maintain, or expand non-profit breakfast programs in schools. Public Law 92-433 made the program available to all schools desiring to participate. Public Law 93-150 removed the requirement that program reimbursement be tied to the cost of obtaining food and specified maximum reimbursement rates of 8 cents for paid breakfasts, 23 cents for reduced price breakfasts, and 28 cents for free breakfasts. In cases of severe need, a payment of up to 45 cents may be made for each free breakfast. The Consumer Price Index adjustor also applies to rates for breakfasts. The latest adjustment raised rates to 9.25 cents for paid breakfasts, 26.75 cents for reduced price breakfasts, and 32.50 cents for free breakfasts.

During fiscal year 1974, the number of schools participating in the program increased from 9,700 to 11,775 and the number of participating children increased by 15.3 percent to 1.5 million children in the peak month. A total of 225 million breakfasts were served, an increase of 16 percent over fiscal year 1973. The program continued to benefit primarily needy children with 84 percent of the breakfasts served free or at reduced prices.

The school breakfast program was authorized by the Child Nutrition Act of 1966 and funded in 1967 in the amount of \$1.5 million. The obligations for fiscal year 1975 are estimated at \$83 million. In participating schools, the program is available to children with the eligibility for free or reduced price breakfasts based on the same criteria as for lunches. Schools are reimbursed on a performance basis upon the number of meals served.

VI.

The special milk program seeks to encourage the consumption of fluid milk by children. All nonprofit primary and secondary schools, nonprofit summer camps for children, and nonprofit child-care institutions are eligible to participate. Federal assistance is given to States to reimburse eligible schools and child-care institutions which participate in the program. The program was initially authorized in 1954 with the expenditure of \$17.2 million in fiscal year 1955. The funding has increased to \$125 million for fiscal year 1975.

From its inception in fiscal year 1955 through fiscal year 1962, the special milk program was financed through advances from Commodity Credit Corporation funds. The Agricultural Act of 1961 (P.L. 87-128), authorized an appropriation for the program and extended it through June 30, 1967. The Child Nutrition Act of 1966 incorporated the special milk program and extended it through fiscal year 1970. Public Law 91-295 authorized appropriation authority not to exceed \$120 million for fiscal year 1970 and each succeeding fiscal year. Public Law 93-150, enacted November 1973, required that the program be made available to all nonprofit schools and child-care institutions requesting it, and further provided that all children who qualify for free lunches would be eligible for free milk under the special milk program.

Public Law 93-347, enacted July 1974, established 5 cents as the minimum rate of reimbursement per half-pint of milk served, with the rate to be adjusted annually to reflect changes in the series of food away from home of the Consumer Price Index. Previously, milk was reimbursed at rates of 2, 3, or 4 cents per half-pint. The rate for an individual school or institution was determined by whether it sold milk as a separate item and whether it participated in the National School Lunch Program.

VII.

The Child Nutrition Act of 1966 authorized a program of cash assistance to help schools in low-income areas acquire food service equipment, other than land or buildings, to establish, maintain, or expand food service programs. State and local sources must bear 25 percent of the cost of the equipment. Under Public Law 92-433, this requirement may be met on a Statewide average basis and may be waived in the case of especially needy schools without food service. Public Law 92-433 also reserved 50 percent of all nonfood assistance funds for exclusive use in needy schools without food service. Half the program funds are allocated among States based on enrollment in schools without food service, and the remaining half is allocated based on the number of lunches served in each State.

A survey in October 1973 showed that 17,800 eligible schools with 5 million children enrolled were without food service programs. The slight increase in the number of schools without food service compared with the October 1972 report is partly attributed to improved reporting on private schools.

In fiscal year 1974, 7,047 schools with food service and 1,439 without food service were approved for assistance. An average Federal contribution of \$2,174 per school with food service and \$9,588 per school without food service was committed.

The nonfood assistance program was funded for \$750,000 in fiscal year 1967. The amount appropriated for fiscal year 1975 was \$28 million.

VIII.

The National School Lunch Act, as amended in 1968, authorized on a 3-year pilot basis the special food service program for children to provide assistance for meal service to nonresidential child-care institutions serving low-income areas and areas with working mothers. The program operates in a two-fold manner; year-round in day-care centers primarily for preschool children, and summer-only in parks, playgrounds, and recreation programs primarily for school age children.

The special food service program continued to grow during fiscal year 1974. Due in large part to the decision to permit previously excluded Head Start programs to participate effective January 1, 1974, the number of children served in the year-round program increased from 225,000 in fiscal year 1973 to 366,000 in fiscal year 1974, an increase of 63 percent. The number of year-round meals served increased from 118 million in 1973 to 161 million in 1974, a 36 percent increase.

The summer phase of the program showed little change in fiscal year 1974 over 1973. About 1.4 million children participated in the summer program and consumed 60 million meals in fiscal year 1974. Participation for the previous year was about the same.

The entire program was initially funded at \$8.75 million in fiscal year 1969. The funding has increased to \$117 million for fiscal year 1975.

IX.

The Child Nutrition Act of 1966 authorized the use of Federal funds for State administrative expenses in undertaking additional activities involved in supervising and giving technical assistance to schools and service institutions participating in the child nutrition programs. The initial funding authorized under the Act occurred in fiscal year 1969, which amounted to \$1.75 million. Federal funds for State administrative expenses remained at basically the same level from fiscal year 1971 through 1974, which was approximately \$3.8 million. To help strengthen State administration of the child nutrition programs and to help offset the burden on States' payrolls imposed by inflation, a request for State administrative expenses almost twice that for fiscal year 1974 was approved for 1975, bringing the level to \$6.7 million.

Funds are apportioned among the States on a man-year concept, based upon salaries within each State. A basic amount to provide for 5 man years is provided to States that administer all of the child nutrition programs. This amount is reduced by $1\frac{1}{4}$ man years for those States which do not administer private schools and $1\frac{1}{2}$ man years for those States which do not administer the Special Food Service Program. The balance of appropriated funds are apportioned among the States on the basis of the number of children aged 3 to 17 from families with incomes of less than \$6,000. The amount reduced from the States which do not administer the programs in private schools or the special food service program are held available to encourage those States to assume this responsibility.

The special supplemental food program (WIC) authorized by section 17 of the Child Nutrition Act of 1966, is designed to meet the nutritional needs of young children from low-income families at their most critical stage of development, and to provide extra protein-rich food to their high risk mothers during pregnancy and while they are nursing.

The statute defines the population eligible to receive benefits as "pregnant or lactating women and . . . infants determined by competent professionals to be nutritional risks because of inadequate nutrition and inadequate income." Participants must live in areas which have significant numbers of such women and children. Children may participate up to age four.

The legislative definition "at nutritional risk" includes infants from low-income populations characterized by inadequate nutritional patterns, as well as low-income mothers who have a history of high-risk pregnancy.

The focus of the WIC program is on food value as well as food purchasing power. The purpose of the program is to provide food supplements "containing nutrients known to be lacking in the diets of populations at nutritional risk and, in particular, those foods and food products containing high-quality protein, iron, calcium, vitamin A, and vitamin C".

Under the program, cash grants are made to the health department of each State, which in turn provides operating funds to "local health or welfare agencies or private non-profit agencies . . . serving local health or welfare needs". The distribution process serves to also encourage mothers and children to make use of the health facilities available to them.

From medical records kept by State or local agencies or groups carrying out the programs, the Secretary of Agriculture determines the medical benefits achieved by WIC in overcoming malnutrition and its resulting disabilities.

The Department of Agriculture decides which applicants will get grants to run programs, based on a State's submission of approved applications. The Department also determines the monthly food package: for infants up to 12 months old there is iron-fortified formula, iron-fortified infant cereal, and canned fruit juice. Nursing mothers and children from 1 to 4 years receive a daily quart of milk plus eggs, cereal and juice.

State health departments must approve and monitor local sponsors and their operations, and forward records and evaluations to regional Food and Nutrition Service offices. State agencies must also decide how to divide the administrative money (10 percent of incurred food costs) between its own administrative needs and those of local sponsors. The way in which the food is distributed is approved or designed by the State. Methods of food delivery include vouchers or food checks which are redeemed at local grocery stores, or direct distribution of purchased foods from warehouses or delivery trucks.

A local WIC sponsor is responsible for publicizing the program, certifying the eligibility of participants, providing the food or the vouchers, conducting medical tests, keeping records, and reporting to

the Department of Agriculture through State agencies. It must also see that local grocers give the correct foods in return for vouchers.

XI.

The legal authority for the school breakfast program, the special food service program for children, and the special supplemental food program for women, infants, and children (WIC) is scheduled to expire this year. The authority to purchase nonsurplus commodities to maintain donations for food assistance programs also expires this year. All of the programs were originally scheduled to expire on June 30, 1975. However, the President has approved emergency bills extending the special food service program and the WIC program through September 30, 1975. See Public Law 94-20 (approved May 2, 1975), and Public Law 94-28 (approved May 28, 1975).

H.R. 4222, as amended by the Committee, is designed to extend the programs which would otherwise expire and make changes to strengthen and improve all the child nutrition programs.

COMMITTEE CONSIDERATION

I.

The Subcommittee on Agricultural Research and General Legislation met on Tuesday, April 22, and Thursday, April 24, for hearings on S. 850, S. 882, S. 891, S. 894, S. 1309, and related amendments.

In addition to the Senators present, 35 public witnesses appeared.

There were two basic legislative approaches discussed for continuing child nutrition legislation. One was the "block grant" approach, as proposed by the Administration. The other was S. 850, a bill to continue and expand the current structure of the child nutrition legislation. At the time of the hearing, however, the "block grant" legislation had not been introduced and could only be considered as described by the Department witnesses.

All the witnesses, with the exception of USDA, were opposed to the "block grant" proposal as discussed by the Department. Although witnesses offered suggested amendments to S. 850, each expressed general approval of the bill as opposed to the "block grant" proposal.

The witnesses expressed their belief that the school breakfast program, the WIC program, the special food service program, and the special milk program would cease to exist if the "block grant" approach were implemented.

In addition, many witnesses noted with approval the provisions of S. 850 designed to extend as well as improve existing law. No witness, other than the Department of Agriculture, opposed these changes in existing law.

In the case of the special supplemental food program (WIC), the witnesses supported each provision, but in particular stressed the need for increased administrative funding and the absolute importance of nutrition education as an integral part of this program.

A substantial majority of the witnesses who addressed these issues favored the continuation of the commodity distribution program for schools, the elimination of competitive foods for lunch rooms, the reduced price lunch program, and an increase in non-food assistance.

The witnesses included Members of Congress, officials of the United States Department of Agriculture, food program administrators, representatives from community nutrition and health support groups, producers, members of the food service industry, and representatives of the medical and dental professions.

II.

In addition to the Administration's "block grant" proposal and the Senate bills, the Committee on Agriculture and Forestry considered H.R. 4222 during its markup of child nutrition legislation on June 4 and 10.

H.R. 4222 is in many parts identical to S. 850. Its overall intent and purpose is the same as S. 850. However, there were two major provisions of H.R. 4222 which the Committee considered and rejected. One of these provisions provides an additional 5-cent reimbursement, for fiscal year 1976, for each lunch served to children who do not qualify for free or reduced price meals. The estimated cost of the provision is

\$125 million. The provision is intended to stop the loss of paying children from participation in the lunch program. The Committee, while sympathetic with this goal, believed that the cost was too prohibitive. Also the Committee was reluctant to provide additional funds for 1 year to a special category of students.

The other major provision of H.R. 4222 rejected by the Committee would have mandated the offering of the reduced price lunch program at 200 percent of the income poverty guidelines as prescribed by the Secretary. Presently, this program is optional, at 175 percent of the income poverty guidelines. The estimated annual cost of the provision is \$180 million. While sympathetic with the goal of helping the poor, the Committee felt that the cost of the provision, in light of necessary budgetary constraints, was too high.

III.

The major provisions of the bill being reported by the Committee are as follows:

School breakfast program (Sec. 2)

During fiscal year 1974 and fiscal year 1975, participation in the school breakfast program showed substantial and steady growth. The impetus for this growth was provided by the 1972 Child Nutrition Act Amendments which made the breakfast program available in all eligible schools which make application. The following chart, prepared by the Department of Agriculture, shows that in September 1973, 9,619 schools offered breakfasts to 1,100,000 children; in September 1974, 12,488 schools offered breakfasts to 1,581,000 children—an increase of 2,869 schools and 481,000 children.

SCHOOL BREAKFAST PROGRAM

Month	Participation (number of children)			
	Schools	Total	Free and reduced	Full price
Fiscal year 1974:				
September.....	9,619	1,100,398	897,925	202,473
October.....	10,071	1,305,760	1,094,227	211,533
November.....	10,287	1,368,445	1,160,441	208,004
December.....	10,330	1,341,527	1,087,978	253,549
January 1974.....	10,595	1,309,020	1,090,414	218,606
February.....	11,544	1,419,575	1,182,506	237,069
March.....	11,536	1,509,088	1,269,143	239,945
April.....	11,775	1,498,949	1,272,608	226,341
May.....	11,791	1,519,824	1,251,454	258,370
Fiscal year 1975:				
September.....	12,488	1,581,160	1,337,661	243,499
October.....	12,801	1,652,545	1,439,350	213,195
November.....	12,955	1,772,524	1,526,489	246,035
December.....	13,024	1,776,177	1,538,755	237,422

As the chart shows, that growth continues briskly—the figures for December 1974 show 13,024 schools, and 1,776,177 children. Of the breakfasts served, 86 percent were served to needy children.

Currently, approximately 13 percent of the schools in the country are participating in the school breakfast program. Although 88,282 schools now serve school lunches, only 13,788 schools provide breakfasts. Latest Department of Agriculture statistics, for April 1975,

indicate that 1.9 million children receive school breakfasts (of which less than 1.6 million are served free or reduced-price meals), while more than 25 million youngsters receive school lunches (of which about 10 million are being served free or reduced-price meals).

In order to expand the school breakfast program, the bill being reported by the Committee states that "it is the purpose and intent of the Congress that the school breakfast program be made available in all schools where it is needed to provide adequate nutrition for children in attendance."

The Secretary is required to conduct a program of information, together with State educational agencies, in order to help bring about the needed expansion. A report about these plans and regulations must be submitted to the committees of jurisdiction in the Congress within 6 months after the enactment of the bill.

School lunch program

(a) Matching requirement (Sec. 5): The bill makes a change in the \$3 to \$1 State to Federal matching ratio set forth in section 7 of the National School Lunch Act. Historically, the \$3 "State" share has been predominantly from children's payments. However, due to the increasing proportion of free and reduced price meals being served, there has developed in a number of States a shortage of children's payments, thus creating a shortage of State matching dollars. The new provision eases the \$3 to \$1 matching requirement with respect to meals served free or at a reduced price. The change does not increase the Federal expenditure of funds either for free or for paid lunches; nor does this provision in any way reduce the matching requirements for State appropriations.

Moreover, the Committee intends that no State shall lose Federal funds because of the amount of funds appropriated by State governments for school meals. States should have maximum flexibility in using section 4 funds and State funds as a means of reaching the paying child.

(b) Commodity distribution program: The bill extends the authority of the Secretary to purchase commodities for the child nutrition programs. The bill directs the use of commodities in the summer food program and the child care food program.

The Committee considered but rejected a provision which would have eliminated the requirement of a specific donation of commodities on a per meal basis. The Committee feels that the support of the commodity donation system provides a strong nutritional base for all the nutrition programs, and cannot be duplicated at the local level except at greater cost. However, where a State phased out its commodity distribution facilities prior to July 1, 1974, it may elect to receive cash in lieu of commodities.

(c) Income poverty guidelines (Sec. 6): The bill requires more expeditious updating of the income poverty guidelines that are used to determine free and reduced price lunch eligibility in the child nutrition programs. At present, the guidelines that take effect on July 1 of any year are based on the average Consumer Price Index for the previous calendar year. This means that the guidelines are about 12 months out-of-date when they take effect and about 24 months out-of-date when they expire.

The bill changes the procedure for updating the guidelines to base the guidelines on more current data. Under this provision, the guidelines that take effect July 1 of each year would be adjusted according to the percentage change in the Consumer Price Index for the 12-month period ending in April of that year. This would make the guidelines only 3 to 15 months out-of-date rather than about 12 to 24 months out-of-date. The provision also provides for an initial update, to be effective July 1, 1976, that would move the guidelines from the existing method of updating to the new method. The first adjustment would be made according to the percentage change between the average Consumer Price Index for 1974 (on which the 1975-76 guidelines are based) and the Consumer Price Index for April 1976.

(d) Meals for institutionalized children (Secs. 9(c), 17(c)): The bill extends the child nutrition programs to nonprofit institutions which have previously only been eligible for the commodity distribution program. Testimony received at the public hearings on the child nutrition legislation indicated that these children, who are often institutionalized through no fault of their own, receive less nutritional support than children attending public schools. The Committee believes that all children should have the same access to the child nutrition programs.

The institutions eligible to participate include, but are not limited to, orphanages, homes for the mentally retarded, homes for the emotionally disturbed, homes for unmarried mothers and their infants, temporary shelters for runaway children, temporary shelters for abused children, hospitals for children who are chronically ill, and juvenile detention centers.

(e) Free lunches for children of unemployed parents (Sec. 6(c)): In recognition of the large number of persons who are without jobs, a special 1-year provision in the House bill provides that any child whose parent or guardian (providing the child's principal support) is unemployed shall be served a free lunch during the period of unemployment.

The bill being reported by the Committee retains the provision, but requires that the existing income eligibility guidelines for free lunches be met.

Child care food program (Sec. 16)

A.

The bill revises the year-round phase of the special food service program for children to establish, under a new section of the National School Lunch Act, the child care food program. Under existing law, the year-round phase of the program for day care centers and the summer food program are authorized by section 13 of the National School Lunch Act. The programs are, however, substantially different. In a report to the Congress dated February 14, 1975, the General Accounting Office recommended that the two programs be separated and authorized under different sections of the National School Lunch Act.

B.

In the past, the day care feeding program of section 13 of the Act has encountered a series of financial and administrative difficulties that have resulted in substantial inequities among the States. Funds for this program have been apportioned according to a formula based on the number of children in each State with family incomes under \$3,000 even though children from higher income families have been covered by the program. The result has been that some States have had more funds than they needed, while other States have been financially squeezed. Reimbursement rates have varied from State to State. Some States have promptly funded equipment requests while others have not. Some States have been forced to keep new day care programs waiting months to get into the program.

In addition, the Department of Agriculture has been forced to supplement the apportionment formula by taking an increasing amount of the money for the program from section 32 funds.

Moreover, reimbursements in this program have not been tied to the income of children's families, even though day care programs generally collect income data in order to qualify for other funds (such as Federal social services funds). Under present law, a day care center can participate in the program so long as there is a sizable concentration of low income children in the area or a sizable concentration of working mothers (or it is an institution serving handicapped children). Any center located in such an area can participate in the program and get the same reimbursement for all children, regardless of their income.

These provisions have kept poor children from participating in the program if they happen to live in non-poor areas. And these provisions have rewarded non-poor children who do live in poor areas.

By maintaining one maximum reimbursement rate for meals served to all children, the current program structure further penalizes poor children. The current rates cover only a small portion of meal costs, even though poor families are hard-pressed to come up with the difference.

Another way in which some low-income children have suffered under the current program has been through the exclusion of family day care homes from the program. Many low income children, especially in rural areas, are cared for under family day care arrangements.

C.

The provisions in the bill being reported by the Committee incorporate into the child care food program many of the features of the school lunch and school breakfast programs. The payments to States under the child care food program would be based on the national average payments under the national school lunch and school breakfast programs. In addition, the apportionment formula would be deleted, and the program would be funded on a "performance funding" basis. All eligible child care institutions would be allowed to enter the program upon request, just as all eligible schools can enter the school lunch program or school breakfast program upon request.

The new child care food program would also parallel the school lunch and school breakfast programs in that reimbursements would depend upon the income of the children's parents. Most day care centers already have or will soon be required to collect such income information in order to receive social services funds under Title XX of the Social Security Act, or to receive other Federal or State funds. Day care centers not already in possession of such income data would collect simple income affidavits, in order to collect reimbursements under the new child care food program.

Reimbursements would be increased for meals served to low-income children, and decreased for meals provided to higher income children. Day care programs would no longer have to be in low income areas to qualify.

D.

While the school meal reimbursements would apply to the new child care food program, no child care institution could receive any reimbursements in excess of the operating costs of its food service. The application and financial procedures required of child care institutions by the Department of Agriculture should be simpler than those used for schools, since child care institutions do not have the financial expertise of school districts. In making Federal assistance available under the child care food program, the Committee intends that the Department utilize a letter-of-credit system. The Committee suggests, further, that child care institutions be allowed to claim reimbursement for less than the full operating cost of their food service. Some child care institutions may wish to be reimbursed only for food and some direct labor and administrative costs. Institutions should be allowed to claim only such costs, and, accordingly, receive lower reimbursements than those that would be received by schools or other child care institutions which claim and document indirect costs and all other reimbursable items allowed under the Department's regulations. There is no intent to force day care institutions to claim Federal reimbursement for those non-food expenses that the institutions are not seeking payment for.

E.

The bill clearly defines which child care institutions are eligible for the program. The provisions make organized family day care homes eligible for the program. However, no institution will be eligible unless it has local, State or Federal licensing approval or can satisfy the Secretary that it is in compliance with the Federal interagency day care requirements of 1968. In addition, to be eligible, an institution must, in accordance with regulations issued by the Secretary, be moving toward (or already be in compliance with) the requirements for IRS tax-exempt status, or must already operate a federally funded program requiring nonprofit status.

F.

The bill also makes important changes in the areas of equipment assistance and commodity donations. Equipment aid would come from a separate fund of \$3 million a year, rather than from a State's appor-

tionment for meal reimbursements. In the commodity area, the Department of Agriculture would be required to provide States with the same commodity donation rate on behalf of all lunches served in the new child care program as the Secretary provides for lunches served in the school lunch program.

Summer food program (Sec. 13)

A.

The need for revision of the legislation governing the summer food program was clearly outlined in the report submitted to Congress by the General Accounting Office on February 14, 1975. The new provisions in the bill being reported by the Committee are based largely on that report.

The GAO report called for clearer definition of which areas should be eligible for summer feeding, recommended that State administrative funds be authorized in order to secure better administration at the State level, recommended advance payments to summer sponsors, and recommended that attending children be served free meals.

The GAO report also noted that current State allocation procedures do not work well since many sponsors overestimate the size of their programs. For example, States requested \$65 million for the summer of 1974, were allocated \$60.6 million, but spent less than \$51 million.

The GAO report also noted that in some areas, adults were improperly eating lunches intended for children.

B.

Other changes in the summer feeding program were recommended by the Department of Agriculture in its "Six City Report", a survey of summer feeding operations in six cities during 1973. The report called for limiting the program to areas of poor economic conditions, instead of allowing non-poor areas to participate if they had high concentrations of working mothers. The USDA report also favored reimbursing sponsors for the cash costs of their food service, rather than for 80 percent of their total operating costs, including in-kind contributions. The report stated that sponsors should concentrate on good management rather than on finding ways to document enough in-kind contributions on paper.

The bill adopts provisions to implement these recommendations. These provisions better define which areas and institutions are to be eligible for summer feeding programs. The program would be limited to institutions serving children from poor economic areas, which would be defined as areas where at least one-third of the children are eligible for free or reduced price school meals. This definition will allow greater participation by low-income children.

In addition, sponsors would be required to conduct a regularly scheduled program; i.e., the program would have to be located at specific sites, and run at regularly scheduled times. This would prohibit trucks from simply driving down streets in poor areas and dispensing lunches.

C.

Organized recreation activities or food service must be provided. An institution providing only a food service could be eligible for the program if the food service was regularly scheduled and for children from poor areas. Institutions could participate in the program for any period from the beginning of May until the end of September, except that areas with a continuous school calendar in which the major yearly school vacation is during non-summer months could participate in the program during such a vacation period.

The purpose of the program is to provide food for children, and adults should be prevented from eating meals intended for children.

D.

Under the bill, all eligible sponsors would receive the program upon request, and would be reimbursed for the cash operating costs and rental of equipment up to a maximum reimbursement per meal. The reimbursement maximums in the bill for food and administrative costs are set at the rates currently prescribed by regulations of the Department of Agriculture. The bill provides that the rates are to be adjusted annually in accordance with changes in food prices. The reimbursements would cover breakfasts, lunches, suppers and supplements served by a sponsor, unless the service period of different meals coincides or overlaps.

E.

The bill would remedy the current problem (identified by the Government Accounting Office) under which State allocations have to be made in advance each spring and somehow matched with State funding estimates for the coming summer, even though these funding estimates are often substantially inflated.

In the funding area, the bill incorporates two other GAO recommendations—advance payments and funds for startup costs. Sponsoring institutions would receive advance payments on June 1, July 1, and August 1, each year. Startup costs differ from advance payments in that they may be provided prior to June 1 in order to aid sponsors to do effective planning and to establish efficient management procedures. Also, payments for startup costs would be authorized, but not required. New sponsors could receive startup costs.

F.

In order to improve program management, the final regulations and application forms governing the program are to be published by March 1 each year. In the past, final regulations have been published in May, contributing to insufficient planning, poor management and audit problems.

G.

The bill also authorizes administrative funds for States in administering the summer food program. The GAO report strongly recommended this amendment. The GAO found the States to have performed inadequately in seeking eligible sponsors, in training sponsors,

in monitoring program operations, and in providing assistance needed by sponsors to run the program well. Lack of administrative funds earmarked specifically for summer feeding has been a principal reason for this poor performance according to the GAO report. The funds provided under the new provision approved by the Committee could be used by States for administering only the summer feeding program, and not for other child nutrition programs.

H.

The GAO report also called on Congress to specify that all attending children receive free meals, since over 95 percent of attending children already receive free meals and collecting money from the few remaining children is administratively difficult. The bill contains such a provision.

A final problem in this program, remedied by the bill, has been the exclusion from the program of "fresh air camps" and other overnight camps for poor children. Several State school food directors asked that these camps be made eligible for the program, since they provide food and other activities for poor children just as day camps and other non-residential institutions that are already eligible for summer feeding. Under the provisions of the bill, camps for children from poor areas would be able to participate in the program.

As in the case of the child care food program, the application and financial procedures required by the Department of Agriculture of institutions participating in the summer food program should be simpler than those for schools. Too, institutions should be allowed to claim reimbursement for less than the full operating costs of their food service.

Nutrition program staff study (Sec. 20)

The goal of the nutrition study authorized by the bill is to assure that adequate staff and organizational development, management training, and other actions designed to improve managerial and operational skills in the child nutrition programs take place at the State and local levels.

The child nutrition programs have expanded considerably in the last several years, and the State and local administrative load and responsibilities have also increased. It is appropriate, therefore, that a survey be conducted to determine how the States are meeting their responsibilities in staff training, structuring, and resource allocation program-by-program to assure the orderly and proper participation of eligible children.

The bill places new administrative obligations on the States. A staff study is, therefore, necessary to determine what new administrative needs the States may have or what changes may be required.

As part of the nutrition study, the Secretary is to examine the degree and cause of plate waste in the school lunch program. The Committee urges that the Department take immediate steps to determine the amount and cause of plate waste, eliminate waste insofar as possible, and make necessary legislative recommendations for minimizing food waste in schools.

Equipment assistance (Sec. 18)

For the last three years, under a provision of the Child Nutrition Act of 1966, 50 percent of the funds appropriated for non-food assistance to schools have been reserved for use only in schools without a food service.

This provision has proved successful in increasing the amount of equipment assistance to "no-program" schools, and in bringing more "no-program" schools into the school lunch program. However, the provision expires on June 30, 1975.

Today, about 16,516 schools with 4,400,000 children remain without any food service. In order to bring as many "no-program" schools as possible into the lunch program, the bill continues the concept of reserving a portion of the funds appropriated for non-food (equipment) assistance. The Committee did make three changes in the existing provision, however.

First, the percentage of funds to be reserved is reduced from 50 to 33½ percent. Second, schools that lack the facilities to prepare or receive hot meals are eligible for these reserved funds, along with schools that have no food service. Finally, the bill provides that if, after apportionments and reapportionments, some reserved funds remain unused, the Secretary shall allow the use of these funds in other schools.

Special supplemental food program (Sec. 14)

A.

The special supplemental food program for women, infants and children (WIC) was developed to provide nutritious supplemental food for nutritionally deficient and low-income pregnant and lactating women, infants, and children up to four years of age through cash grants to State health departments or comparable agencies. Authorized as a 3-year pilot program, the WIC program has developed into a program involving more than 1,500 individual clinic sites in 49 States, Puerto Rico and the Virgin Islands. The approved caseload for fiscal year 1975 is 173,200 women, 210,800 infants, and 369,000 children for a total of 753,000 participants.

The Committee believes that the WIC program represents a commonsense approach to the prevention of health disease and defects. Otherwise, these afflictions may become too profound to cure or too costly to remedy.

The foods provided under the WIC program include high-quality protein, iron, calcium, vitamins A and C. Persons eligible for such a program often are not aware of the necessity of such nutrients to the healthy and proper development of both mother and child. Furthermore, even those who are aware of their nutritional deficiency are prevented from improving their diet by their lack of funds. A study undertaken at Babies Hospital in New York concluded that "maternal malnutrition during gestation provides the simplest explanation for the under-nutrition found in the newborn infants of the poor."

The connection between low income, low birthweight, infant mortality, birth defects, and impaired learning has been clearly demonstrated.

Birth defects are three times as common in low-weight infants as in larger babies. Almost 8 percent or 245,000 newborn babies weigh less than 5½ pounds. In the United States, nearly half of all infant deaths are related to low birth weight. In addition, low birth weight can retard mental development as evidenced by a study which showed that children weighing less than 5 pounds at birth had an average IQ of 94.6, as compared to 99.6 for children who weighed 5 to 10 pounds at birth.

B.

The bill being reported by the Committee extends the program through September 30, 1977, at a funding level of \$250,000,000, to be provided from section 32 funds when direct appropriations have not been made available by the beginning of the fiscal year. However, any section 32 funds so used will be replaced in the section 32 account through supplemental appropriation acts. The funds authorized will be supplemented by an additional \$30-40 million in carry-over money—money which will be unspent in fiscal year 1975. This carry-over of funds is identical to the carry-over which occurs in the other child nutrition programs, as required by law. (The current annualized budget for this program is approximately \$200 million per year.)

C.

The bill being reported by the Committee adopts several proposals designed to make the WIC program easier to administer, more responsive to evaluation and input from experts in the field of maternal, infant, and fetal nutrition, and more clearly a part of an integrated health and education program.

The bill states specifically that the purpose of the program is to provide supplemental nutritious food as an adjunct to good health care in order to prevent the occurrence of health problems.

The bill increases the amount of administrative costs the Secretary may pay to 20 percent, including funds for clinic costs and nutrition education. Currently, States receive about 16 percent for these functions, but with no clear mandate to include nutrition education. In addition, startup funds have been made available as needed. These two amendments should correct two of the most serious problems in the administration of the WIC program. Nutrition education is a vitally important component of the program.

D.

The feasibility and practicality of assessing the health impact of WIC is of vital concern. The bill directs the Secretary to meet with a group of experts in the field of health and nutrition evaluation to study this question and report to Congress. Also, the Secretary is required to form a standing National Advisory Council on Maternal, Fetal, and Infant Nutrition, to make a continuing study of the effectiveness of WIC and related programs and report to Congress on how they may be improved. It is, of course, important that input for the evaluation of the WIC program come from many sources, including, but not limited to, the Department of Agriculture.

The Committee also intends that State or local agencies or groups maintain—in accordance with regulations issued by the Secretary—adequate medical records on participants so as to enable the Secretary to evaluate the program and to provide an ongoing health assessment of participants.

E.

The bill increases flexibility in the food package provided under the WIC program to take into account medical and nutritional objectives and cultural eating patterns. Under this provision, children otherwise eligible for the WIC program who have an illness which requires a substitute in the WIC food package may be allowed to participate if such a substitution is made under medical authorization and supervision.

SECTION-BY-SECTION ANALYSIS

Short title

The first section states that the bill may be cited as "The National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1975."

Sec. 2. School breakfast program

Section 2 extends the authorization for appropriations for the school breakfast program through the fiscal year 1977.

Sec. 3. Statement of policy to expand program

Section 3 states that, as a matter of national policy, the breakfast program should be made available in all schools where it is needed and requires that the Secretary of Agriculture carry out a program of information to implement this policy. The Secretary would have to report his plans to expand the program to the appropriate congressional committees within 6 months after enactment of the bill.

Sec. 4. Conforming amendment

Section 4 would make conforming changes necessitated by the amendment made by section 9(c).

Sec. 5. Matching

The National School Lunch Act presently requires States, in general, to match every dollar of Federal funds received under section 4 of the National School Lunch Act (general food assistance payments) with \$3 of State and local funds. Section 5 waives the matching requirement with respect to the amount of general food assistance payments received by a State with respect to free or reduced price lunches. However, the level of State revenues required by section 7 of the Act to be appropriated or utilized specifically for program purposes for any fiscal year could not be reduced, but would be computed without regard to the waiver effected by this section.

Sec. 6. Income poverty guidelines

Section 6 amends section 9(b) of the National School Lunch Act.

Subsection (b) changes the time for prescribing income poverty guidelines to June 1, for use during the subsequent 12-month period beginning on July 1. The guidelines are to be revised annually on the basis of changes in the Consumer Price Index for the 12-month period ending in April of the fiscal year in which the revision is issued, except that the income poverty guideline for use from July 1976 through June 1977 shall be revised on the basis of the change between the average 1974 Consumer Price Index and the CPI for April 1976. Other provisions of the section remain substantially the same as existing law.

Subsection (c) adds a provision requiring that any child of a parent or guardian who is the principal support of such child and is unemployed shall be served a free lunch during such time within the period of unemployment if the parent or guardian's income falls within the income criteria for free lunches. The determination of the status of a

parent or guardian for the purposes of this provision shall be made solely on the basis of a statement executed by such person.

Subsection (d) makes conforming changes necessitated by the amendment made by section 9(c).

Sec. 7. Nonprofit private schools

Section 7 contains a technical amendment to the National School Lunch Act to make the provision authorizing direct payments to private nonprofit schools and institutions conform to the revised funding method for school lunch funds prescribed by Public Law 92-433 and to the amendment made by section 9(c).

Sec. 8. Submission of State plan

Subsection (a) of section 8 authorizes the Secretary to prescribe the date by which State educational agencies shall file their annual plans of child nutrition operations.

Subsection (b) changes the word "fiscal" to "school" to avoid having a State's plan of operation become effective sometime after the beginning of a school year, as would generally be the case when the Federal fiscal year is changed to begin on October 1.

Sec. 9. Definitions of "State" and "school"

Subsection (b) of section 9 amends the National School Lunch Act to include the Trust Territory of the Pacific Islands in the definition of "State".

Subsection (c) broadens the definition of "school" contained in the National School Lunch Act to include public or licensed nonprofit private residential child care institutions, adopting the same definition of "nonprofit" presently contained in section 12(d)(3) of the National School Lunch Act, which is tax-exempt status under the Internal Revenue Code.

Subsection (d) of section 11 provides that the value of the assistance obtained under the Act is not to be considered income or resources for any purposes under any Federal or State laws.

Sec. 10. Commodity distribution program

Section 10 extends the authority to purchase commodities for child nutrition programs and for programs for the elderly, when acquisitions under agricultural authorities (section 32 and price support) are not available.

Section 10 also requires purchases of such cereal, shortening and oil products as were provided in fiscal year 1974 in the same or greater quantities. The value of these commodities shall not be included in meeting the commodity donation, or cash in lieu thereof, requirements of section 6(e) of the National School Lunch Act.

Sec. 11. Federal expenditures

Subsection (a) of section 11 amends section 6(a) of the National School Lunch Act to provide that the Secretary of Agriculture, in purchasing foods for child nutrition programs, shall not issue specifications which restrict participation of local producers unless it will result in significant advantages to the programs. The subsection further amends section 6(e) of that Act to provide that at least 75 percent of the assistance provided thereunder shall be in the form of foods donated for the school lunch program.

Sec. 12. Election to receive cash payments

Section 12 adds a new section to the National School Lunch Act to allow a State which phased out its commodity distribution facilities prior to June 30, 1974, to elect to receive cash payments in lieu of donated foods for its child nutrition programs. The cash payments shall be in an amount equal to the value of the foods the State would have received if it had distribution facilities, which, in the case of lunches, shall be computed at the rate required under section 6(e) of the Act. The cash payments are to be promptly and equitably disbursed to schools and institutions and shall be used by them to purchase agricultural commodities and other foods produced and processed in the United States.

Sec. 13. Summer food program

Section 13 amends section 13 of the National School Lunch Act.

Subsection (a) of the amended section 13, authorizes a summer food service program for children through September 30, 1977, in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands. Any eligible service institution—i.e., a non-residential public or private, nonprofit institution, or a residential public or private nonprofit summer camp—that develops a special summer program providing food service to children similar to the school lunch program or the school breakfast program must receive the summer food program upon its request. The utilization of existing school food service facilities is encouraged. Service institutions eligible for the program would have to offer a regularly scheduled program for children from areas in which poor economic conditions exist for any period during the months of May through September at site locations where organized recreational activities or food are provided for children in attendance. An area of poor economic conditions is defined as one in which at least one-third of the children are eligible for free and reduced price meals under the school lunch program or the school breakfast program.

Subsection (b) of the amended section 13 provides for payment to service institutions of the full cost of obtaining, preparing, and serving food and related administrative costs. However, maximum rates are fixed for each kind of meal and its related administrative cost. These amounts are to be adjusted each March 1, on the basis of changes in the series for food away from home of the Consumer Price Index. Service institutions may not be limited in the number of daily meals or supplements for which claim may be made unless the service period of the different meals coincides or overlaps.

Subsection (c) of the amended section 13 provides for participation in the program by service institutions, otherwise eligible, which develop food service programs for children on school vacation at any time during the school year.

Subsection (d) of the amended section 13 provides for advance payments to be made to each State on June 1, July 1, and August 1 in an amount not less than the payment made for the same calendar month of the preceding year or 65 percent of the amount estimated will be earned in the State that month. States which receive advance pay-

ments for service institutions operating programs during nonsummer vacations shall receive advance payments no later than the first day of each month of operations.

Subsection (e) of the amended section 13 provides that all children in service institutions participating in the summer food program are to be served free meals which meet standards prescribed by the Secretary of Agriculture.

Subsection (f) of the amended section 13 requires the Secretary to publish proposed program regulations by January 1 of each year and to publish final regulations, guidelines, applications, and handbooks by March 1. The Secretary may provide for advances of startup costs to any service institution in an amount which does not exceed 10 percent of the amount paid to the institution during the previous summer, such advances to be recovered from amounts subsequently earned under the program. The Secretary, under appropriate regulations, could make comparable startup cost provisions for new program participants and for the nonsummer vacation programs.

Subsection (g) of the amended section 13 provides that service institutions participating in the program shall utilize, insofar as practicable, foods designated by the Secretary as being in abundance or foods donated by the Secretary. This subsection also makes all service institutions, without regard to the cash assistance provided by the section, eligible for the receipt of foods available under section 416 of the Agricultural Act of 1949, or purchased under section 32 of the Act of August 24, 1935, or section 709 of the Food and Agriculture Act of 1965.

Subsection (h) of the amended section 13 provides that if any State educational agency is legally or otherwise unable to disburse funds paid to it under the program to any service institution, the Secretary of Agriculture shall administer the program for all service institutions in the State.

Subsection (i) of the amended section 13 requires that the amount of State and local funds spent for children's food programs shall not be diminished as a result of funds received under the summer food program.

Subsection (j) of the amended section 13 authorizes the appropriation of funds for the Secretary's administrative expenses.

Subsection (k) of the amended section 13 provides that the Secretary shall pay to each State for its administrative expenses each fiscal year an amount equal to 2 percent of the funds paid to it under subsection (b). If the funds paid under subsection (b) total more than \$50,000, the minimum payment to the State shall be \$10,000. It is further provided that a service institution may contract on a competitive basis for the furnishing of meals and for administration of the program.

Sec. 14. Special supplemental food program

Section 14 amends the special supplemental food program (WIC) in section 17 of the Child Nutrition Act of 1966.

Subsection (a) of the amended section 17 contains the finding of the Congress that pregnant women, infants and young children are at special health risk and expresses the purpose to provide supplemental nutritious food at such critical times of growth and development.

Subsection (b) of the amended section 17 extends the program through September 30, 1977. It requires the program to be made available to pregnant or lactating women and to infants determined to be eligible by competent professionals because of inadequate nutrition and inadequate income. The program is to be carried out supplementary to the food stamp and food distribution programs and side-by-side with existing supplemental food programs.

Subsection (c) of the amended section 17 authorizes an appropriation, or use of section 32 funds, in the amount of \$250,000,000.

Subsection (d) of the amended section 17 authorizes the Secretary to pay to States for administrative costs of State or local agencies not to exceed 20 percent of the funds provided to the State for program purposes. However, the Secretary is required to pay administrative costs incurred during the first 3 months of any program, or until the program reaches its projected caseload, even though the 20 percent limitation is exceeded. As a prerequisite to receipt of administrative funds, States (including Indian tribes, bands or groups and the Indian Health Service) must file for approval by the Secretary a description of the manner in which the funds will be spent, including a description of the manner in which nutrition education services will be provided. The Secretary is required to take affirmative action to insure that programs begin in areas most in need of special supplemental food.

Subsection (e) of the amended section 17 provides that the persons determined to be eligible to participate in the program must be residents of areas or members of a population served by health facilities which have significant numbers of infants and pregnant and lactating women at nutritional risk.

Subsection (f) of the amended section 17 requires that State or local agencies or groups carrying out special supplemental food service programs shall maintain medical records on participants. The Secretary is to convene an advisory committee composed of representatives from public and private health organizations to determine and recommend in detail how the health benefits of the special supplemental food program may best be evaluated and assessed. The advisory committee shall also consider the usefulness of the medical data collected and the methodology used by the Department of Agriculture and the Comptroller General prior to March 30, 1975. The committee shall report to the Secretary by December 1, 1975, and the Secretary shall submit his recommendations to the Congress by March 1, 1976.

Subsection (g) of the amended section 17 defines terms used in the section. They do not differ from existing law except for the addition of a definition of "administrative costs" and a requirement that the contents of the supplemental food package be made available in such a manner as to provide flexibility, taking into account medical and nutritional objectives and cultural eating patterns.

Subsection (h) of the amended section 17 establishes a National Advisory Council on Maternal, Infant, and Fetal Nutrition, to be composed of State and local program officials, parent recipients, medical specialists, a food retail sales person, and USDA and HEW specialists in health and nutrition. Council members appointed from outside the Department of Agriculture are to be elected for 3 year terms which would initially be staggered. The Council is required to submit an an-

nual report to the Congress and the President with its recommended administrative and legislative changes for the program.

Sec. 15. Extension of special milk program

Subsection (a) of section 15 amends the Child Nutrition Act of 1966 to expand the definition of "United States" under the special milk program to include the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa and the Trust Territory of the Pacific Islands. The special milk program provisions are also amended to provide that the rate of reimbursement to the school or institution shall not exceed the cost of the milk served.

Subsection (b) amends the school breakfast program provisions to add the Trust Territory of the Pacific Islands to the States specifically referred to.

Subsection (c) expands the definition of "State," for purposes of the Child Nutrition Act of 1966, to include the Trust Territory of the Pacific Islands.

Sec. 16. Child care food program

Section 16 adds a new section 17 to the National School Lunch Act. Subsection (a) of the new section authorizes the appropriation of necessary funds to carry out a child care food program in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

Any public or private nonprofit organization which has a local, State, or Federal license or approval as a child care institution, or can satisfy the Secretary of Agriculture that its standards are no less comprehensive than the Federal interagency day care requirements of 1968, is eligible if it does not maintain the children in permanent residence. Further, unless the institution is currently operating a federally funded program requiring nonprofit status, it must have tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1954, or be moving toward compliance with the requirements for such tax exempt status. Examples of eligible institutions are day care centers, settlement houses, recreation centers, family day care programs, Head Start centers, Homestart programs, and institutions providing day care services for handicapped children.

Any eligible institution must be allowed to participate in the child care food program upon its request.

Subsection (b) of new section 17 requires the Secretary to make payments to State educational agencies no less frequently than on a monthly basis in amounts obtained by multiplying the number of meals by type (breakfast, lunch, supper, snacks) and category (paid, reduced price, free) by the national average payments for breakfasts, lunches and suppers established under section 4 of the Child Nutrition Act of 1966 and under sections 4 and 11 of the National School Lunch Act, and by national average factors of 5 cents, 10 cents, and 15 cents for snacks. The rates established for snacks are to be adjusted semi-annually for changes in the series of food away from home of the Consumer Price Index.

Subsection (c) of new section 17 requires that meals served under the program consist of a combination of foods and shall meet nutritional

requirements prescribed by the Secretary. Needy children shall receive free meals without physical segregation or other discrimination or overt identification. No institution shall be prohibited from serving a breakfast, lunch, dinner, and snack to each eligible child each day. Each such meal meeting the requirements of this section is eligible for reimbursement.

Subsection (d) of new section 17 provides that funds paid to any State shall be disbursed to participating institutions on a nondiscriminatory basis to reimburse them for costs, including labor and administrative expenses, of their food service operations. Claims of institutions must be paid by State educational agencies within 30 days.

Subsection (e) of new section 17 makes all institutions, without regard to the cash assistance provided by the section, eligible for the receipt of foods available under section 416 of the Agricultural Act of 1949, or purchased under section 32 of the Act of August 24, 1935, or section 709 of the Food and Agriculture Act of 1965. Each State shall receive each fiscal year a quantity of commodities, or cash in lieu thereof, at least equal in value to an amount determined by multiplying the rate for that year under section 6(e) of the National School Lunch Act by the number of lunches served that year by participating institutions.

Subsection (f) of new section 17 requires the Secretary to disburse funds directly to institutions in a State where the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any institution.

Subsection (g) of new section 17 provides that expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the section.

Subsection (h) of new section 17 authorizes necessary administrative expenses for the Secretary of Agriculture.

Subsection (i) of new section 17 requires States, State educational agencies and institutions to keep accounts and records and to maintain them for such period, not in excess of 5 years, as the Secretary determines necessary. The accounts and records shall be available for inspection and audit by representatives of the Secretary.

Subsection (j) of new section 17 makes \$3 million of the sums appropriated each fiscal year for the child care food program available for the purchase of equipment (nonfood assistance). The funds are to be apportioned among the States according to the ratio of the number of children under age 6 from households with an annual income not above 125 percent of the income poverty guidelines prescribed by the Secretary under section 9(b) of the National School Lunch Act. Funds received by any State under this subsection must be matched by funds from sources within the State totaling at least one-fourth the cost of the equipment financed, except that no matching is required in the case of funds used to assist especially needy institutions.

Subsection (k) of new section 17 requires the Secretary of Agriculture to issue regulations for the child care food program not later than 90 days after enactment of the National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1975. Meanwhile, the Secretary is authorized to conduct a food service program in the same

manner and under the same conditions as the Special Food Service Program for Children was conducted in fiscal year 1975.

Sec. 17. Conforming amendment; definition of school

Subsection (a) of section 17 is a conforming change necessitated by the amendment made by subsection (b) of this section.

Subsection (b) amends the definition of "school" in the Child Nutrition Act of 1966 to include public or licensed nonprofit private residential child care institutions. Such institutions would have to have tax-exempt status under the Internal Revenue Code to be eligible to participate in programs under the Act.

Sec. 18. Nonfood assistance program

Subsection (a) of section 18 amends the nonfood assistance program provisions of the Child Nutrition Act of 1966 to provide that the matching requirements for Federal financing of equipment shall not apply if the equipment is acquired for especially needy schools.

Subsection (b) amends the provisions of the nonfood assistance program which provide for a reserve of funds to supply equipment to schools without a food service by adding the requirement that the reserve be used also for schools without the facilities to prepare or receive hot meals. After fiscal year 1976, the number of schools without facilities shall also be used in determining the apportionment of the reserved funds among the States and the amount of funds to be withheld for schools and institutions for which the Secretary administers the nonfood assistance program. It is also provided that, if States cannot use all the reserved funds initially apportioned to them, the remaining funds shall be reapportioned among the States for use in the assistance of schools without a food service or facilities to prepare or receive hot meals. However, any of the reserved funds which remain unused after the reapportionments shall be used by the Secretary to assist schools which already have a food service program and facilities to prepare or receive hot meals. Funds used for especially needy schools are exempt from the matching provisions of the subsection.

Sec. 19. Expansion of programs

Section 19 adds a new section 18 to the National School Lunch Act, enunciating a policy that the summer food service program and the child care food program be made available in all institutions where they are needed to provide adequate nutrition for children, and directing the Secretary, in cooperation with State educational and child-care agencies, to carry out a program of information in furtherance of this policy.

Sec. 20. Nutrition study

Section 20 adds a new section 19 to the National School Lunch Act. The Secretary is authorized to carry out a study to determine how States are utilizing funds made available to them for their administrative expenses in carrying out the child nutrition programs and to determine the level of funds needed by them. State personnel practices and policies shall be studied and an assessment made of the additional State needs to implement the National School Lunch Act and Child Nutrition Act of 1966, and to conduct effective outreach for purposes

of expansion of the summer food service program and the child care food program. The Secretary is also directed to examine the degree and cause of plate waste. The study design is to be reviewed with the appropriate congressional committees. Findings are to be reported to Congress no later than March 1, 1976.

Sec. 21. Special appropriation

Section 21 adds a new section 20 to the National School Lunch Act authorizing appropriations through September 1976, to enable the Secretary of Agriculture to assist the Trust Territory of the Pacific Islands to carry out developmental and experimental projects relating to the child nutrition programs.

DEPARTMENTAL VIEWS

I.

The Committee has received no formal report from the Department of Agriculture on H.R. 4222 or on any of the Senate bills (except S. 894) which were the subject of hearings before the Subcommittee on Agricultural Research and General Legislation on April 22 and 24, 1975. However, at the hearings, Assistant Secretary of Agriculture Richard L. Feltner expressed the Administration's support of a "block grant" program to replace the existing child nutrition programs.¹ The prepared statement by the Assistant Secretary reads as follows:

STATEMENT BY RICHARD L. FELTNER, ASSISTANT SECRETARY,
UNITED STATES DEPARTMENT OF AGRICULTURE

Mr. Chairman and Members of the Committee: We welcome the opportunity to participate in today's hearing on legislative proposals relating to Federal-State Child Nutrition Programs. First, I'd like to discuss the child nutrition proposal that was contained in President Ford's Budget for fiscal year 1976. The "block grant" approach, recommended in the Budget, would increase Federal assistance to provide adequate nutrition for needy children, including needy infants, and would, at the same time, serve as a means to reduce Federal costs. The proposed legislation—the "Child Food Assistance Act of 1975"—would substitute one annual consolidated appropriation for all the child nutrition funding now in effect, including direct grants to the School Lunch Program; Special Milk Program; Nonfood Assistance Program; the Special Supplemental Food Program for Women, Infants, and Children (WIC); and all other related school and nonschool feeding programs.

This proposal to substitute a single program for the current set of child nutrition programs is being made to assure that States can provide the equivalent of a free meal to every needy child. Estimates indicate that almost 700,000 needy children receive no program benefits because present programs are not available to them. The cost to insure the needy an adequate diet is lower than projected estimates for the current programs if they were to continue. The difference does not represent a decrease in benefits to the poor but is the result of discontinued reimbursement for the nonpoor. In fact, the Administration's proposal would more than double current benefits for needy children by providing substantial increases in reimbursements for meals served for 1 year rather than just during the school term. Furthermore, the grant would provide States the flexibility of designing a feeding program tailored to local situations.

USDA's budget for the current child nutrition programs would be \$2.4 billion in fiscal 1976. The cost of the block grant program for fiscal year 1976 is estimated at \$1.7 billion, which would represent a savings of about \$700 million for the year, compared to costs of extending current programs with no liberalization or increase in participation. Over the next 5 years the block grant approach is

¹ On June 9, 1975, there was referred to the Committee a copy of a letter to the President of the Senate from the Under Secretary of Agriculture, transmitting the Administration's draft bill to provide for the block grant program.

estimated to produce savings of \$4 billion, as compared to the estimated costs of current programs.

Under the new approach, the Secretary would establish annually a national daily reimbursement rate which would cover the projected cost of providing a meal or food which meets one-third of the daily Recommended Dietary Allowance for a child on a year-round basis. In establishing the national daily reimbursement rate, the Secretary would take into consideration, in addition to cost estimates received from the States, adjustments in the food-away-from-home component of the Consumer Price Index and other appropriate factors. For fiscal year 1976, the proposal would provide for a national rate of reimbursement of 90 cents. This rate is consistent with the Department's estimates of the cost of providing one-third of the Recommended Dietary Allowance during that year and is in accordance with the President's proposal to limit increases in programs tied by law to the Consumer Price Index to five percent through June 30, 1976.

The States would be responsible for designing a feeding program tailored to provide specifically for the needs of poor children in the State, with considerable latitude in exercising that responsibility to adapt programs to local situations. States would develop plans to provide free meals to poor children in schools and institutions, utilizing the most appropriate type of meal, or combination of meals, snacks, and/or milk; or would provide food directly to needy children not in schools or institutions. Annually, each State would receive an amount of funds equal to the national daily reimbursement rate times the number of needy children certified by the Governor as having been served meals or provided food which met at least one-third the Recommended Dietary Allowance per child per day.

Another significant change in the new approach would discontinue the Federal cash support now given for lunches to non-needy children under the National School Lunch Program. The States could continue to support non-needy children, if they feel such support should be continued. In that case, however, the support for non-needy children would have to come from State and local resources. Eliminating Federal subsidies to the non-needy would provide sufficient Federal funds for the States to increase benefits to all needy children.

States would be free to operate programs year-round, during school periods only, or in some combination best suited to local circumstances. Grants could be used for the present "Type A" lunches, for breakfasts, snacks, supplementary milk, a WIC-type program for infants and children, or any other suitable nutritional combination responsive to local needs and preferences. States and local school systems and governments would, in short, be free to adapt programs to local conditions.

Each State would annually develop a plan to feed poor children, publish it for review and comment and send it to the Department. USDA would advise the State if some feature of the plan represented a nonlegal use of block-grant funds, but USDA approval of the plan would not be required. Then, at the end of each fiscal year, States would submit a report in the form of a statement of accomplishment, certified by the Governor as to the legality of use of the funds.

Additionally, the block-grant program would establish a National Advisory Committee to advise the Secretary of Agriculture on program administration, and would require periodic evaluation of the effective-

ness of the grants in achieving the elimination of poverty-caused hunger among children.

Turning to the matter of commodities, the block-grant proposal would not repeal section 32 or section 416 authorities. The Secretary could, at his discretion, continue to purchase nonprice supported surplus commodities or to take other actions to achieve farm price objectives, as necessary, and to donate such commodities to States.

Commodities are currently budgeted for fiscal year 1976. The block grant proposal provides that the value of commodities donated to schools would offset a portion of the funds payable to States under the block grant.

We see the block grant proposal as a sound alternative to continued escalation of the present array of child nutrition programs.

Each one, taken by itself serves a worthwhile objective. But taken together, they represent a group of programs, which has grown up in a largely piecemeal, uncoordinated fashion, and which, in many instances, overlap other similar assistance programs. Thus, we advocate that the time is right for you in Congress and us in the Executive Branch to take a close look at the package as a whole, in terms of certain basic questions:

First, given the current growth rate of these programs, what are future cost prospects, unless we're able to set reasonable limits on uncontrolled growth?

Secondly, to what extent are these rapidly escalating Federal costs disproportionately subsidizing those who do not need subsidies while many needy children remain unassisted?

Thirdly, to what extent do these programs overlap and duplicate the benefits available through other assistance programs?

Finally, what are the available options for a system to remedy the failings and direct the assistance to where it is most needed?

President Ford addressed these fundamental issues in his February 3 Budget Message to the Congress. He said, the "tremendous growth of our domestic assistance programs in recent years has, on the whole, been commendable." But then, he pointed out that unless we are able to "rationalize and streamline these programs," the costs would become "insupportably heavy" for American taxpayers to bear.

Similar concerns are reflected in Congressional passage of the Budget Reform Act, under which Congress is establishing machinery to exercise greater control and coordination over Federal spending. The Joint Economic Committee of Congress addressed similar questions in its through-going series of Studies in Public Welfare.

Turning first to the question of costs, where are we heading in child nutrition programs? Should the programs continue as they are, given simple extensions of existing legislative authorities—Department budget projections show that in fiscal year 1976, beginning July 1, they would carry Federal costs over \$2.4 billion; and that by fiscal year 1980 the costs would escalate to over \$3 billion, nearly 50 percent above this year's level. Then, the question becomes, where does it end? President Ford pointed out in his budget message that if domestic assistance programs continue growing at the rate they have been over the next two decades, government spending would advance to over half of our national output.

But now let's look at the second and equally important question. Altogether, as indicated earlier, we estimate that about 700,000 needy children receive no program benefits because the present programs are not available to them. Further, with the exception of the 1.7 million needy children who benefit from the summer feeding program, most needy children are not reached in the summer months. Meanwhile, the Federal Government contributes 22 cents per lunch to 15 million non-needy children at a cost of about \$600 million annually, plus additional amounts to those non-needy who participate in the breakfast and milk programs.

Taking up the third question on program overlap—as part of their studies into public welfare, the Joint Economic Committee requested a survey of food stamp participants, the first such national survey. Conducted by the Chilton Research Associates, the study looked into all kinds of income, including Child Nutrition benefits available to food stamp users. Significantly 30 percent of all the families surveyed had children participating in the school lunch program; 6.6 percent had youngsters getting school breakfasts; 2.4 percent, special food service benefits; and 2.4 percent were getting supplemental food program benefits.

Of all the households surveyed, one-third were receiving benefits from 4 or more Federal assistance programs. These results suggest the desirability of some integration of these activities into a coordinated package of public assistance, that will encourage more equitable sharing of benefits among people who genuinely need them.

The results also suggest that we may well be dividing our Federal and State administrative capabilities among too many narrow categorical programs of limited scope, while some major programs are still falling short of reaching their target audiences.

The aforementioned examples are the kinds of problem areas that might better be resolved, if administrative energies at all levels of government were more sharply focused.

And finally, returning to the fourth question—on the available options to remedy these situations—we see the block-grant proposal as the most viable long-range alternative.

In the interim, however, we are prepared to accept the measure that is currently pending in Congress to extend the Summer Feeding Program through this summer. The program is already authorized and funded for a third of the summer, and it would obviously be disruptive to make major changes in midseason.

As I said earlier, the proposed Child Food Assistance Act would provide food to fulfill $\frac{1}{4}$ of the daily Recommended Dietary Allowances for each needy child in the United States on a year-round basis. We want to ensure that the program concentrates food assistance on needy children—those whose more urgent needs merit highest priority. The program also will help to decentralize Government operations and share more decisionmaking power with State governments.

We appreciate this opportunity to present the Department's views.

II.

In a letter to the Chairman dated June 5, 1975, the Department of the Treasury expressed its objection to provisions in S. 850 authorizing

advance funding for the child care food program and the WIC program. H.R. 4222, as passed by the House, also contains an advance funding provision for the child care food program. The bill being reported by the Committee contains neither provision. The letter from the Department of the Treasury reads as follows:

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., June 5, 1975.

HON. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture and Forestry, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: The Department of the Treasury would like to take this opportunity to file a voluntary report on S. 850, the proposed "National School Lunch and Child Nutrition Act Amendments of 1975", which was referred to your Committee on February 26, 1975.

Specifically, the Department objects to certain advance-funding provisions of the bill in that they would, in our view, result in cash being withdrawn from the Treasury well in advance of the financial needs of the programs involved. As you know, when Federal cash is held outside the Treasury in this manner there are adverse consequences: (1) the Treasury is forced to accelerate its financing operations in the market—thus adding to the level of public debt interest costs; and (2) States and other grantees holding excess reserves often invest them in income-producing assets (often Treasury short-term securities) resulting in a hidden program subsidy not intended by Congress.

The specific, objectionable elements of the bill are as follows: Section 13 would add a new section 16 to the National School Lunch Act (42 U.S.C. 1751 et seq.) to authorize grants-in-aid to States to maintain on a permanent basis certain programs for children in non-profit child-care institutions. Under subsection (b)(3), advance payments would be made by the Secretary of Agriculture at the beginning of each month to State educational agencies based on prior-month experience under the programs. Section 16 would re-write section 17 of the Child Nutrition Act (42 U.S.C. 1786) to expand assistance to States for the special supplemental food program for pregnant and lactating women, and infants (the so-called WIC program). Subsection (i) of the amended section 17 would provide advance financing similar to that for the National School Lunch Act programs, above.

The effect of these provisions would be to place funds in the hands of grantees (States) thirty days or more in advance of their disbursement (depending on State procedures for reimbursing qualified recipients). The Department opposes in principle financing procedures which increase Treasury borrowing costs by reason of withdrawal of cash from the Treasury in advance of program needs. To prevent this the Department in 1965 issued regulations to all Federal departments and agencies providing for a letter-of-credit system to ensure better timing between drawdowns of cash and ultimate disbursement thereof by a recipient organization (Treasury Circular No. 1075; 31 CFR Part 205). Section 205.3 of those regulations provides as follows:

"Regardless of the particular method used, advances to a recipient organization shall be limited to the minimum amounts needed and

shall be timed to be in accord only with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program costs and the proportionate share of any allowable indirect costs."

Section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), relating to the scheduling of Federal transfers to States, recognizes the letter-of-credit system by requiring that the transfer of grant-in-aid funds be scheduled "consistent with program purposes and applicable Treasury regulations, so as to minimize the time elapsing between the transfer of such funds from the United States Treasury and the disbursement thereof by a State. . . ." The letter-of-credit system now covers almost \$40 billion in annual Federal grants, and we are continually bringing new programs into the system and refining its procedural elements to make it more effective for the Treasury, the program agencies, and recipient organizations. Thus we are concerned when we see proposed legislation with financing provisions like those in S. 850 which could exempt major programs from the letter-of-credit system. Such provisions tend to dilute the effect of our regulations on agency cash management practices.

While no estimate can be made at this time on added financing costs resulting from these provisions, since final funding may differ from authorization levels, it can be stated that the cost to the Treasury of advancing funds an average of thirty days prior to program disbursements (which we believe would be the minimum for the proposed programs) would be approximately \$680,000 for each \$100 million of program commitment (based on the average short-term Treasury bill interest rate for calendar year 1974).

The Department therefore objects to the advance-financing provisions of sections 13 and 16 of S. 850. The Department defers to the Department of Agriculture with respect to other provisions of the bill.

The Office of Management and Budget has advised that there is no objection to the submission of this report, and that enactment of S. 850 would not be in accord with the President's program.

Sincerely yours,

DONALD L. E. RITGER,
Acting General Counsel.

III.

In a letter to the Chairman dated June 20, 1975, the Department of Agriculture expressed its opposition to the enactment of S. 894. The letter reads as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 20, 1975.

HON. HERMAN E. TALMADGE,
*Chairman, Committee on Agriculture and Forestry,
U.S. Senate.*

DEAR MR. CHAIRMAN: This is in reply to your request of March 5 for a report on S. 894, a bill "To establish a universal food service program for children."

This Department does not recommend enactment of S. 894.

This bill would provide for cash and commodity support on an annual basis to States for providing free meals to all children. The actual level of such payment is yet to be determined. In addition, the bill would provide for a program of nutrition education, equipment assistance and assistance to States and local schools and institutions in the administration of a universal program.

Enactment of S. 894 would provide free meals to children from families whose parents can now afford to pay for such a food service, and would require a very substantial increase in Federal funding of the Child Nutrition Programs. This Department is committed to providing free meals to needy children, but to provide free meals to all children is neither justifiable nor feasible.

Under the Federal funding authorized in S. 894, we project the Federal cost of such a school program at about \$5.3 billion annually, exclusive of the value of commodity donations from federally acquired stocks and Federal administrative expenses. The addition of these costs, together with a minimum program in service institutions, would result in excessive Federal costs in the range of at least \$6 billion annually. The impact on future Federal budgets may be even more significant than any present estimates of program costs.

The Office of Management and Budget advises that there is no objection to the submission of this report to the Committee and that enactment of S. 894 would not be in accord with the President's program.

Sincerely,

J. PHIL CAMPBELL,
Acting Secretary.

COST ESTIMATE

In accordance with section 252 of the Legislative Reorganization Act of 1970, the following is the Committee's estimate of the costs which would be incurred in carrying out the provisions of the bill. No formal estimate of costs has been received from the Department of Agriculture; however, the following estimate is based on information informally supplied by representatives of the Department.

COMPARISON OF FISCAL YEAR 1976 THROUGH FISCAL YEAR 1980 PROGRAM LEVELS FOR CHILD NUTRITION, SPECIAL MILK, AND WIC PROGRAMS

[in thousands of dollars]

	Fiscal year—		Fiscal year 1976 cost: H.R. 4222 as amended by Committee	Added cost compared to request	Added cost compared to request	Added cost in fiscal year 1977 compared to revised 1976 budget estimate	Added cost in fiscal year 1978 compared to revised 1976 budget estimate	Added cost in fiscal year 1979 compared to revised 1976 budget estimate	Added cost in fiscal year 1980 compared to revised 1976 budget estimate
	1976 budget request	1976 revised budget estimate							
1. Cash payments to States:									
(a) School lunch program (sec. 4)	498,000	530,000	530,000	+32,000	+32,000	+32,000	+32,000	+32,000	+32,000
(b) Special assistance (sec. 11)	865,000	821,000	1,859,000	+56,000	+56,000	+38,000	+40,706	+41,805	+42,892
(c) Breakfast program	28,000	104,000	104,000	+104,000	+104,000				
(d) Emergency assistance	28,000	28,000	28,000						
(e) State administrative expenses	6,700	6,700	6,700						
(f) Nonschool food program:									
Year-round		65,000	1,085,000	+65,000	+65,000	+41,000	+42,599	+45,108	+46,279
Summer		62,000	62,000	+62,000	+62,000				
2. Commodity procurement	438,188	475,185	551,085	+36,997	+36,997	+76,000	+78,964	+83,610	+85,784
3. Nutritional training and surveys	1,000	1,000	1,000						
4. Federal operating expenses	13,391	14,379	14,739	+988	+988	+1,348	+360	+386	+406
Total, child nutrition	1,850,279	2,207,264	2,362,624	+356,985	+356,985	+512,345	+516,614	+517,779	+518,004
5. Special milk		144,000	144,000	+144,000	+144,000				
6. WIC		200,000	250,000	+200,000	+200,000	+50,000	+51,950	+53,560	+55,066
Grand total	1,850,279	2,551,264	2,756,624	+700,985	+700,985	+906,345	+913,369	+925,923	+931,797

1 Includes \$38,000,000 for meals to be served in residential institutions.

2 Includes \$41,000,000 for child care feeding; cash, \$28,000,000; nonfood assistance, \$3,000,000; commodities, \$10,000,000 (\$7,000,000 of this amount would be in added funds. The child care program currently gets \$3,000,000 in commodities annually.)

3 Includes \$79,000,000 for grain and oils, minus \$3,000,000 currently donated to day care centers, \$29,000,000 for day care centers, \$20,000,000 for day care centers.

4 Includes \$280,000 for the following: SAE study, \$300,000; school breakfast meeting, \$30,000; SPSF meeting, \$30,000.

While the above table contains cost estimates for fiscal year 1976 through fiscal year 1980, several programs extended by the bill (school breakfast; child care program; and the WIC program) are extended only through September 30, 1977; other programs amended by the bill have permanent authorizations; for example, the school lunch program.

The provision in the bill, which requires that the income poverty guideline be updated, will cause no increase in costs in fiscal year 1976; the provision does not take effect until July 1, 1976. In the four fiscal years that follow (fiscal year 1977 through fiscal year 1980) the provision could result in some small additional cost being incurred. The size of such additional cost cannot be estimated at this time because it would depend on the inflation rate experienced during such period.

ROLLCALL VOTES

In accordance with section 133 of the Legislative Reorganization Act of 1946, it is announced that there were the following rollcall votes:

- (1) An amendment to strike the provision in the bill authorizing the Secretary to purchase non-surplus commodities for the school lunch program was rejected by a vote of 3 to 8 as follows:

Yeas: Senators Allen, Bellmon, and Helms.

Nays: Senators Clark, Dole, Eastland, Humphrey, Leahy, McGovern, Stone, and Talmadge.

- (2) An amendment to extend the existing summer food program without any changes was rejected by a vote of 4 to 10 as follows:

Yeas: Senators Bellmon, Curtis, Helms, and Young.

Nays: Senators Allen, Clark, Dole, Eastland, Huddleston, Humphrey, Leahy, McGovern, Stone, and Talmadge.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman) :

NATIONAL SCHOOL LUNCH ACT

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National School Lunch Act."

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school-lunch programs.

APPROPRIATIONS AUTHORIZED

SEC. 3. For each fiscal year there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary of Agriculture (hereinafter referred to as "the Secretary") to carry out the provisions of this Act, other than section 13. Appropriations to carry out the provisions of this Act and of the Child Nutrition Act of 1966 for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of such Acts shall remain available for the purposes of the Act for which appropriated until expended.

APPORTIONMENT TO STATES

SEC. 4. The sums appropriated for any fiscal year pursuant to the authorizations contained in section 3 of this Act, excluding the sum specified in section 5, shall be available to the Secretary for supplying agricultural commodities and other food for the program in accordance with the provisions of this Act. For each fiscal year the Secretary shall make food assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection 9(a) of this Act) served during such fiscal year to children in schools in such State, which participate in the school lunch program under this Act under agreements with such State edu-

cational agency, by a national average payment per lunch for such fiscal year determined by the Secretary to be necessary to carry out the purposes of this Act: *Provided*, That in any fiscal year such national average payment shall not be less than 10 cents per lunch and that the aggregate amount of the food assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section 4.

NONFOOD ASSISTANCE

SEC. 5. Of the sums appropriated for any fiscal year pursuant to the authorization contained in section 3 of this Act, \$10,000,000 shall be available to the Secretary for the purpose of providing, during such fiscal year, nonfood assistance for the school-lunch program pursuant to the provisions of this Act. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of \$10,000,000, and such apportionment among the States shall be on the basis of the factors, and in accordance with the standards, set forth in section 4 with respect to the apportionment for agricultural commodities and other foods.

DIRECT FEDERAL EXPENDITURES

SEC. 6. (a) The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this Act, and for carrying out the provisions of the Child Nutrition Act of 1966, other than section 3 thereof, less

(1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for his administrative expenses under this Act and under the Child Nutrition Act of 1966;

(2) the amount apportioned by him pursuant to sections 4 and 5 of this Act and the amount appropriated pursuant to sections 11 and 13 of this Act and sections 4, 5, and 7 of the Child Nutrition Act of 1966; and

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this Act and the programs under the Child Nutrition Act of 1966, other than section 3, which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966, shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this Act and under the Child Nutrition Act of 1966 in accordance with the needs as deter-

mined by the local school and service institution authorities. The provisions of law contained in the proviso of the Act of June 28, 1937 (50 Stat. 323), facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 32 of the Act approved August 24, 1935 (49 Stat. 774), as amended, shall, to the extent not inconsistent with the provisions of this Act, also be applicable to expenditures of funds by the Secretary under this Act. *In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this Act and the Child Nutrition Act of 1966.*

(b) As of February 15 of each fiscal year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that fiscal year to States for school food service programs under the provisions of this section, section 416 of the Agricultural Act of 1949, and section 32 of the Act of August 24, 1935. If such estimated value is less than 90 per centum of the value of such deliveries initially programed for that fiscal year, the Secretary shall pay to State educational agencies, by not later than March 15 of that fiscal year, an amount of funds that is equal to the difference between the value of such deliveries initially programed for such fiscal year and the estimated value as of February 15 of such fiscal year of the commodities and other foods to be delivered in such fiscal year. The share of such funds to be paid to each State educational agency shall bear the same ratio to the total of such payment to all such agencies as the number of meals served under the provisions of section 9(a) of this Act and section 4(e) of the Child Nutrition Act of 1966 during the preceding fiscal year bears to the total of all such meals served in all the States during such fiscal year: *Provided*, That in any State in which the Secretary directly administers school food service programs in the [nonprofit private] *any of the* schools of such State, the Secretary shall withhold from the funds to be paid to any such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of meals served in [nonprofit private] *such* schools under the provisions of section 9(a) of this Act and section 4(e) of the Child Nutrition Act of 1966 during that fiscal year bears to the total of such meals served in all the schools in such State in such fiscal year. Each State educational agency, and the Secretary in the case of [nonprofit private] schools in which he directly administers school food service programs, shall promptly and equitably disburse such funds to schools participating in the lunch and breakfast programs under this Act and the Child Nutrition Act of 1966 and such disbursements shall be used by such schools to obtain agricultural commodities and other foods for their food service program. Such food shall be limited to the requirements for lunches and breakfasts for children as provided for in the regulations by the Department of Agriculture under title 7, subtitle (b), chapter II, subchapter (a), parts 210 and 220.

(c) Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use

funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to make any payments to States authorized under such subsection. Any section 32 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32.

(d) Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 7 of this Act.

LEVEL OF COMMODITY ASSISTANCE

(e) For the fiscal year ending June 30, 1975, and subsequent fiscal years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch, and that amount shall be adjusted on an annual basis each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. *Notwithstanding any other provision of this section, not less than 75 per centum of the assistance provided under this subsection (e) shall be in the form of donated foods for the school lunch program.*

PAYMENT TO STATES

SEC. 7. Funds apportioned to any State pursuant to section 4 or 5 during any fiscal year shall be available for payment to such State for disbursement by the State educational agency, in accordance with such agreements not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agency, for the purpose of assisting schools of that State during such fiscal year, in supplying (1) agricultural commodities and other foods for consumption by children and (2) nonfood assistance in furtherance of the school-lunch program authorized under this Act. Such payments to any State in any fiscal year during the period 1947 to 1950, inclusive, shall be made upon condition that each dollar thereof will be matched during such year by \$1 from sources within the State determined by the Secretary to have been expended in connection with the school-lunch program under this Act. Such payments in any fiscal year during the period 1951 to 1955, inclusive, shall be made upon condition that each dollar thereof will be so matched by one and one-half dollars; and for any fiscal year thereafter, such payments shall be made upon condition that each dollar will be so matched by \$3. In the case of any State whose per capita income is less than the per capita income of the United States, the matching required for any fiscal year shall be decreased by the percentage which the State per capita income is below the per capita income of the United States. For the purpose of determining whether the matching requirements of this section and section 10, respectively, have been met, the reasonable

value of donated services, supplies, facilities, and equipment as certified, respectively, by the State educational agency and in case of schools receiving funds pursuant to section 10, by such schools (but not the cost or value of land, of the acquisition, construction, or alteration of buildings of commodities donated by the Secretary, or of Federal contributions), may be regarded as funds from sources within the State expended in connection with the school-lunch program. For the fiscal year beginning July 1, 1971, and the fiscal year beginning July 1, 1972, State revenue (other than revenues derived from the program) appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 4 per centum of the matching requirement for the preceding fiscal year; for each of the two succeeding fiscal years, at least 6 per centum of the matching requirement for the preceding fiscal year; for each of the subsequent two fiscal years, at least 8 per centum of the matching requirement for the preceding fiscal year; and for each fiscal year thereafter, at least 10 per centum of the matching requirement for the preceding fiscal year. The State revenues made available pursuant to the preceding sentence shall be disbursed to schools, to the extent the State deems practicable, in such manner that each school receives the same proportionate share of such revenues as it receives of the funds apportioned to the State for the same year under sections 4 and 11 of the National School Lunch Act and sections 4 and 5 of the Child Nutrition Act of 1966. *The requirement in this section that each dollar of Federal assistance be matched by \$3 from sources within the State (with adjustments for the per capita income of the State) shall not be applicable with respect to the payments made to participating schools under section 4 of this Act for free and reduced price lunches: Provided, That the foregoing provision shall not affect the level of State matching required by the sixth sentence of this section.* The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this section and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

STATE DISBURSEMENT TO SCHOOLS

Sec. 8. Funds paid to any State during any fiscal year pursuant to section 4 or 5 shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school-lunch program. Such disbursement to any school shall be made only for the purpose of assisting it to finance the cost of obtaining agricultural commodities and other foods for consumption by children in the school-lunch program and nonfood assistance in connection with such program. Such food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, or handling thereof. In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiply-

ing the number of lunches served in the school in the school-lunch program under this Act during such year by the maximum Federal food-cost contribution rate for the State, for the type of lunch served, as prescribed by the Secretary. In any fiscal year in which the national average payment per lunch determined under section 4 is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, shall be increased by a like amount. Lunch assistance disbursements to schools under this section and under section 11 of this Act may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 9. (a) Lunches served by schools participating in the school-lunch program under this Act shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research; except that such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students.

[Note: The change in subsection (b)(1) below is effective January 1, 1976.]

(b) (1) [The Secretary, not later than May 15 of each fiscal year, shall prescribe an income poverty guideline setting forth income levels by family size for use in the subsequent fiscal year, and such guideline shall not subsequently be reduced to be effective in such subsequent fiscal year. Any child who is a member of a household which has an annual income not above the applicable family-size income level set forth in the income poverty guideline prescribed by the Secretary shall be served a free lunch. Following the announcement by the Secretary of the income poverty guideline for each fiscal year, each State educational agency shall prescribe the income guidelines, by family size, to be used by schools in the State during such fiscal year in making determinations of those children eligible for a free lunch. The income guidelines for free lunches to be prescribed by each State educational agency shall not be less than the applicable family-size income levels in the income poverty guideline prescribed by the Secretary and shall not be more than 25 per centum above such family-size income levels. Each fiscal year, each State educational agency shall also prescribe income guidelines, by family size, to be used by schools in the State during such fiscal year in making determinations of those children eligible for a lunch at a reduced price, not to exceed 20 cents, if a school elects to serve reduced-price lunches. Such income guidelines for reduced-price lunches shall be prescribed at not more than 50 per centum above the applicable family-size income levels in the income poverty guideline prescribed by the Secretary, except that any local school authority having income guidelines for free or reduced price lunches which exceed those allowed by this subsection may continue to use such guidelines for determining eligibility until July 1, 1973, if such guidelines were established prior to July 1, 1972. Local school authorities shall publicly announce such income guidelines on or about the opening of school each fiscal year and shall make

determinations with respect to the annual incomes of any household solely on the basis of a statement executed in such form as the Secretary may prescribe by an adult member of such household. No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced-price lunch shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by other means: *Provided further*, That, beginning with the fiscal year ending June 30, 1974, State educational agencies are authorized to establish income guidelines for reduced price lunches at not more than 75 per centum above the applicable family size income levels in the income poverty guidelines as prescribed by the Secretary.] *No later than June 1 of each fiscal year, the Secretary shall issue revised income poverty guidelines for use during the subsequent 12-month period from July through June. Such revisions shall be made by multiplying the income poverty guideline currently in effect by the change in the Consumer Price Index for the 12-month period ending in April of such fiscal year: Provided, That such revision for use from July 1976 through June 1977 shall be made by multiplying the income poverty guideline currently in effect by the change between the average 1974 Consumer Price Index and the Consumer Price Index for April 1976. Any child who is a member of a household which has an annual income not above the applicable family-size income level set forth in the income poverty guidelines prescribed by the Secretary shall be served a free lunch. Following the announcement by the Secretary of the income poverty guidelines for each 12-month period, each State educational agency shall prescribe the income guidelines, by family size, to be used by schools in the State during such 12-month period in making determinations of those eligible for a free lunch as prescribed in this section. The income guidelines for free lunches to be prescribed by each State educational agency shall not be less than the applicable family-size income levels in the income poverty guidelines prescribed by the Secretary and shall not be more than 25 per centum above such family-size income levels. Each fiscal year, each State educational agency shall also prescribe income guidelines, by family size, to be used by schools in the State during the 12-month period from July through June in making determinations of those children eligible for a lunch at a reduced price, not to exceed 20 cents, if a school elects to serve reduced-price lunches. Such income guidelines for reduced-price lunches shall be prescribed at not more than 75 per centum above the applicable family-size income levels in the income poverty guidelines prescribed by the Secretary. Local school authorities shall publicly announce such income guidelines on or about the opening of school each fiscal year, and shall make determinations with respect to the annual incomes of any household solely on the basis of a statement executed in such form as the Secretary may prescribe by an adult member of such household. No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means. For purposes of this subsection, "Consumer Price Index" means the Consumer Price Index published each month by the Bureau of Labor Statistics of the Department of Labor.*

(2) Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free lunch during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parent or guardian during such period of unemployment falls within the income eligibility criteria for free lunches. Local school authorities shall publicly announce that such children are eligible for a free lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence solely on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. No physical segregation of, or other discrimination against, any child eligible for a free lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.

(c) School-lunch programs under this Act shall be operated on a nonprofit basis. Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or commodities donated by the Secretary. Commodities purchased under the authority of section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school-lunch program under this Act as well as to other schools carrying out nonprofit school-lunch programs and institutions authorized to receive such commodities. The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 32, under section 416 of the Agricultural Act of 1949, as amended, and under section 709 of the Food and Agriculture Act of 1965, as amended, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions. The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any of the provisions of law referred to in the preceding sentence. None of the requirements of this section in respect to the amount for "reduced cost" meals and to eligibility for meals without cost shall apply to [nonprofit private schools] schools (as defined in section 12(d)(6) of this Act which are private and nonprofit as defined in the last sentence of section 12(d)(6) of this Act) which participate in the school-lunch program under this Act until such time as the State educational agency, or in the case of such schools which participate under the provisions of section 10 of this Act the Secretary certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements.

[NONPROFIT PRIVATE SCHOOLS]

DISBURSEMENT TO SCHOOLS BY THE SECRETARY

SEC. 10. If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under this Act to [nonprofit private] any of the schools in the State, or is not permitted by

law to match Federal funds made available for use by such [nonprofit private] schools, the Secretary shall [withhold from the funds apportioned to any such State under sections 4 and 5 of this Act an amount which bears the same ratio to such funds as the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 9, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by all nonprofit private schools participating in the program under this Act within the State, as determined by the Secretary, bears to the participation rate for the State. The Secretary shall disburse the funds so withheld directly to the nonprofit private schools within said State for the same purposes and] *disburse the funds directly to such schools within the State for the same purposes and* subject to the same conditions as are authorized or required with respect to the [disbursement] *disbursements* to schools within the State by the State educational agency, including the requirement that any such payment or payments shall be matched, in the proportion specified in section 7 for such State, by funds from sources within the State expended by [nonprofit private] *such* schools within the State participating in the school-lunch program under this Act. Such funds shall not be considered a part of the funds constituting the matching funds under the terms of section 7[*: Provided, That beginning with the fiscal year ending June 30, 1974, the Secretary shall make payments from the sums appropriated for any fiscal year for the purposes of section 4 and section 11 of this Act directly to the nonprofit private schools in such State for the same purposes and subject to the same conditions as are authorized or required under this Act with respect to the disbursements by the State educational agencies*].

SPECIAL ASSISTANCE

SEC. 11. (a) Except as provided in section 10 of this Act, in each fiscal year each State educational agency shall receive special-assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection 9(a) of this Act) served free to children eligible for such lunches in schools within that State during such fiscal year by the special-assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced-price lunches in schools within that State during such fiscal year by the special-assistance factor for reduced-price lunches prescribed by the Secretary for such fiscal year. For the fiscal year beginning July 1, 1973, the Secretary shall prescribe a special-assistance factor for free lunches of not less than 45 cents and a special-assistance factor for reduced-price lunches which shall be 10 cents less than the special-assistance factor for free lunches. The Secretary shall prescribe on July 1 of each fiscal year, and on January 1, of each fiscal year, semiannual adjustments in the national average rates for lunches served under section 4 of the National School Lunch Act and the special-assistance factor for the lunches

served under section 11 of the National School Lunch Act, and the national average rates for breakfasts served under section 4 of the Child Nutrition Act of 1966, as amended, that shall reflect changes in the cost of operating a school lunch and breakfast program under these Acts, as indicated by the change in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor: *Provided*, That the initial such adjustment shall reflect the change in the series for food away from home during the period September 1973, through November 1973: *Provided further*, That each subsequent adjustment shall reflect the changes in the series for food away from home for the most recent six-month period for which such data are available: *Provided further*, That such adjustments shall be computed to the nearest one-fourth cent. Notwithstanding the foregoing two sentences, (1) for the fiscal year beginning July 1, 1973, no special assistance factor under this section 11 shall, for any State, be less than the average reimbursement paid for each free lunch (in the case of the special assistance factor for free lunches), or for each reduced price lunch (in the case of the special assistance factor for reduced price lunches), in such State under this section in the fiscal year beginning July 1, 1972; and (2) adjustments required by the sentence immediately preceding this sentence shall be based on the special assistance factors for the fiscal year beginning July 1, 1973, as determined without regard to any increase required by the application of this sentence.

(b) Except as provided in section 10 of the Child Nutrition Act of 1966, the special-assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in financing the cost of providing free and reduced-price lunches served to children pursuant to subsection 9(b) of this Act. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents.

(c) Special assistance payments to any State under this section shall be made as provided in the last sentence of section 7 of this Act.

(d) In carrying out this section, the terms and conditions governing the operation of the school lunch program set forth in other sections of this Act, including those applicable to funds apportioned or paid pursuant to section 4 or 5 but excluding the provisions of section 7 relating to matching, shall be applicable to the extent they are not inconsistent with the express requirements of this section.

(e) (1) [Not later than January 1 of each year] *Each year by not later than a date specified by the Secretary*, each State educational agency shall submit to the Secretary, for approval by him as a prerequisite to receipt of Federal funds or any commodities donated by the Secretary for use in programs under this Act and the Child Nutrition Act of 1966, a State plan of child nutrition operations for the following [fiscal] school year, which shall include, as a minimum, a description of the manner in which the State educational agency proposes (A) to use the funds provided

under this Act and funds from sources within the State to furnish a free or reduced-price lunch to every needy child in accordance with the provisions of section 9; (B) to extend the school-lunch program under this Act to every school within the State, and (C) to use the funds provided under section 13 of this Act and section 4 of the Child Nutrition Act of 1966 and funds from sources within the State to the maximum extent practicable to reach needy children.

(2) Each school participating in the school-lunch program under this Act shall report each month to its State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month. Each participating school shall provide an estimate, as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced price lunch.

(3) The State educational agency of each State shall report to the Secretary each month the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month. Each State educational agency shall provide an estimate as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced price lunch.

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 12. (a) States, State educational agencies, and schools participating in the school-lunch program under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this Act are being complied with. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

(b) The Secretary shall incorporate, in his agreements with the State educational agencies, the express requirements under this Act with respect to the operation of the school-lunch program under this Act insofar as they may be applicable and such other provisions as in his opinion are reasonably necessary or appropriate to effectuate the purposes of this Act.

(c) In carrying out the provisions of this Act, neither the Secretary nor the State shall impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction in any school.

(d) For the purposes of this Act—

(1) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, **[or]** American Samoa, or the Trust Territory of the Pacific Islands.

(2) "State educational agency" means, as the State legislature may determine, (A) the chief State school officer (such as the State

superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education controlling the State department of education; except that in the District of Columbia it shall mean the Board of Education.

[(3)] (3) "Nonprofit private school" means any private school exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954.]

[(4)] (3) "Nonfood assistance" means equipment used by schools in storing, preparing, or serving food for school children.

[(5)] (4) "Participation rate" for a State means a number equal to the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 9, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by schools participating in the program under this Act in the State, as determined by the Secretary.

[(6)] (5) "Assistance need rate" (A) in the case of any State having an average annual per capita income equal to or greater than the average annual per capita income for all the States, shall be 5; and (B) in the case of any State having an average annual per capita income less than the average annual per capita income for all the States, shall be the product of 5 and the quotient obtained by dividing the average annual per capita income for all the States by the average annual per capita income for such State, except that such product may not exceed 9 for any such State. For the purposes of this paragraph (i) the average annual per capita income for any State and for all the States shall be determined by the Secretary on the basis of the average annual per capita income for each State and for all the States for the three most recent years for which such data are available and certified to the Secretary by the Department of Commerce; and (ii) the average annual per capita income for American Samoa shall be disregarded in determining the average annual per capita income for all the States for periods ending before July 1, 1967.

[(7)] (6) "School" means [any public or nonprofit private school of high school grade or under and, with respect to Puerto Rico, shall also include nonprofit child-care centers certified as such by the Governor of Puerto Rico] (A) *any public or nonprofit private school of high school grade or under*, (B) *any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded)*, and (C) *with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.*

(e) *The value of assistance to children under this Act shall not be considered to be income or resources for any purposes under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs.*

[Note. The following changes in section 13 are effective October 1, 1975.]

[SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN]

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 13. (a) (1) There is hereby authorized to be appropriated such sums as are necessary for [each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, and for the period July 1, 1975, through September 30, 1975.] *the fiscal year ending June 30, 1976, for the period July 1, 1976, through September 30, 1976, and for the fiscal year ending September 30, 1977,* to enable the Secretary to formulate and carry out a program to assist States through grants-in-aid and other means, to initiate, maintain, [or] and expand nonprofit food service programs for children in service institutions. For purposes of this section, the term "service institutions" means [private, nonprofit institutions or public institutions, such as child day-care centers, settlement houses, or recreation centers, which provide day care, or other child care where children are not maintained in residence, for children from areas in which poor economic conditions exist and from areas in which there are high concentrations of working mothers, and includes public and private nonprofit institutions providing day care services for handicapped children] *nonresidential public or private, nonprofit institutions, and residential public or private nonprofit summer camps that develop special summer programs providing food service similar to that available to children under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 during the school year. To the maximum extent feasible, consistent with the purposes of this section, special summer programs shall utilize the existing food service facilities of public and nonprofit private schools. Any eligible service institution shall receive the summer food program upon its request.*

[(2) Subject to all the provisions of this section, the term "service institutions" also includes public or private nonprofit institutions that develop special summer programs providing food service similar to that available to children under the National School Lunch or School Breakfast Programs during the school year, including such institutions providing day care services for handicapped children. To the maximum extent feasible, consistent with the purposes of this section, special summer programs shall utilize the existing food service facilities of public and nonprofit private schools.]

(2) *Service institutions eligible to participate under the program authorized under this section shall be limited to those which conduct a regularly scheduled program for children from areas in which poor economic conditions exist, for any period during the months of May through September at site locations where organized recreation activities or food services are provided for children in attendance.*

(3) *For the purposes of this section, "poor economic conditions" shall mean an area in which at least 33½ per centum of the children are eligible for free or reduced price school meals under the National School Lunch Act and Child Nutrition Act as shown by information provided from model city target areas, departments of welfare, zoning*

commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending schools located in the area of summer food sites, or from other applicable sources. "State" shall mean any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

[(b) (1) Of the funds appropriated for the purposes of this section for any fiscal year, the Secretary shall reserve 2 per centum for apportionment to Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands. Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall each be paid an amount which bears the same ratio to the total of such reserved funds as the number of children aged three to seventeen, inclusive, in each bears to the total number of children of such ages in all of them.]

[(2) From the remainder of the funds appropriated for any fiscal year, the Secretary shall pay to each State such sums as he deems appropriate, but not more than \$50,000, as a basic grant. In addition, the Secretary shall allot to each State from the funds remaining after the basic grants have been made an amount which bears the same ratio to such remaining funds as the number of children in that State aged three to seventeen, inclusive, in families with incomes of less than \$3,000 per annum bears to the total number of such children in all the States. For the purposes of this paragraph, the term "State" does not include Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.]

(b) Disbursement to service institutions shall equal the full cost of food service operations, except that such financial assistance to any such institution shall not exceed (1) 75.5 cents for all costs excepting administrative costs for each lunch and supper served, (2) 6 cents for administrative costs for each lunch and supper served, (3) 42 cents for all costs except administrative costs for each breakfast served, (4) 3 cents for administrative costs for each breakfast served, (5) 19.75 cents for all costs except administrative costs for each meal supplement served, and (6) 1.5 cents for administrative costs for each meal supplement served: Provided, That the above amounts shall be adjusted each March 1 to the nearest one-fourth cent in accordance with changes for the year ending January 31 in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The initial such adjustment shall reflect the change in the series for food away from home during the period January 31, 1975, to January 31, 1976. The cost of food service operations shall include the cost of obtaining, preparing, and serving food and related administrative costs. No service institution shall be prohibited from serving breakfasts, suppers, and meal supplements as well as lunches unless the service period of different meals coincides or overlaps.

[(c) (1) Funds paid to any State under this section shall be disbursed by the State educational agency to service institutions, selected on a nondiscriminatory basis by the State educational agency. (A) to reimburse the service institutions for the cost of obtaining agricultural commodities and other foods, and (B) for the purposes of paragraphs (2) and (3) of this subsection. The

costs of obtaining agricultural commodities and other foods may include the cost of the processing, distributing, transporting, or handling thereof. Disbursement to participating service institutions shall be made at such rate of reimbursement per meal as the Secretary shall prescribe.

[(2) In circumstances of severe need where the rate per meal established by the Secretary is insufficient to carry on an effective feeding program, the Secretary may authorize financial assistance not to exceed 80 per centum of the operating costs of such a program, including the cost of obtaining, preparing, and serving food. Non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to equipment and services. In the selection of institutions to receive assistance under this subsection, the State educational agency shall require the applicant institutions to provide justification of the need for such assistance.]

[(3) Not to exceed 25 per centum of the funds paid to any State may be used by the State to assist service institutions by paying not to exceed 75 per centum of the cost of the purchase or rental of equipment, other than land and buildings, for the storage, preparation, transportation, and serving of food to enable the service institutions to establish, maintain, and expand food service under this section.]

(c) Disbursements shall be made to service institutions only for meals served during the months of May through September, except that the foregoing provision shall not apply to institutions which develop food service programs for children on school vacation at any time under a continuous school calendar or prevent such institutions, if otherwise eligible, from participating in the program authorized by this section.

[Note. For changes to the provisions of the following subsection, see the new subsection (h) below.]

[(d) If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any service institution in the State, the Secretary shall withhold all funds apportioned under this section and shall disburse the funds so withheld directly to service institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.]

[(e) Notwithstanding the provisions of any other law, balances of funds appropriated for the purposes of this section and unobligated at the end of any fiscal year shall remain available for obligation during the first three months of the following fiscal year.]

[Note. For the changes to the provisions of the following subsection, see the new subsection (e) below.]

[(f) Service institutions to which funds are disbursed under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost or at a reduced cost to children determined by the service institutions to be unable to pay the full cost. Such determinations shall be made by the service institution authorities in accordance with a

publicly announced policy and plan applied equitably on the basis of criteria which, as a minimum, shall include the level of family income, including welfare grants, the number in the family unit, and the number of children in the family unit attending school or service institutions. In making such determination, service institution authorities should, to the extent practicable, consult with public welfare and health agencies. No physical segregation or other discrimination against any child shall be made because of his inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or other means.

[(g)] If any State cannot utilize all funds apportioned to it, or if additional funds are made available for apportionment among the States, under this section, the Secretary shall make further apportionments to the remaining States in the manner prescribed in subsection (b).

[(h)(1)] The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this section of the Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

[(2)] Each service institution participating under this section shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the institution area, or foods donated by the Secretary. Irrespective of the amount of funds appropriated under this section, foods available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1), may be donated by the Secretary to service institutions in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs.

[(3)] The value of assistance to children under this section shall not be considered to be income or resources for any purpose under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

[(4)] There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for his administrative expenses under this section.

[(5)] States, State educational agencies, and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

[(i)] Notwithstanding any other provision of law, the Secretary of

Agriculture is authorized to utilize, during the period May 15 to September 15, 1972, not to exceed \$25,000,000 from funds available during the fiscal years 1972 and 1973 under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to carry out the purposes of this section. Funds expended under the provisions of this paragraph shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out section 13 of the National School Lunch Act, and such reimbursements shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32. Funds made available under this subsection shall be in addition to direct appropriations or other funds available for the conduct of summer food service programs for children.

[(j) Reimbursement rates established by the Secretary for meals served during the period May through September 1975 in service institutions operating special summer programs under section 13(c) (1) of the National School Lunch Act and in service institutions operating special summer programs under section 13(c) (2) of the National School Lunch Act shall be adjusted to the nearest quarter cent to reflect changes since the period May through September 1974 in the cost of operating special summer programs as indicated by the change in the series for food away from home of the Consumer Price Index of the Bureau of Labor Statistics of the Department of Labor for the most recent twelve-month period for which the Consumer Price Index has been established.

[(k) No later than ten days following enactment of this legislation, the Secretary shall issue regulations pertaining to the operation of the summer food program during the months of May through September 1975: *Provided*, That such regulations shall in no way differ from regulations currently in effect, except for such changes as are necessary to implement the provisions of this Act.]

(d) *No later than June 1, July 1, and August 1 of each year, the Secretary shall forward to each State an advance payment for meals to be served in that month pursuant to subsection (b), which amount shall be no less than (1) the total payment made to such State for meals served pursuant to subsection (b) for the same calendar month of the preceding calendar year or (2) 65 per centum of the amount estimated by the State, on the basis of approved applications, to be needed to reimburse service institutions for meals to be served pursuant to subsection (b) in that month, whichever is the greater. The Secretary shall forward any remaining payment due pursuant to subsection (b) no later than 60 days following receipt of valid claims. Any funds advanced to a State for which valid claims have not been established within 180 days shall be deducted from the next appropriate monthly advance payment unless the claimant requests a hearing with the Secretary prior to the 180th day. Institutions operating programs during non-summer vacations during a continuous school year calendar shall receive advance payments not later than the first day of each month involved.*

(e) *Service institutions to which funds are disbursed under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without*

cost to children attending service institutions approved for operation under this section.

(f) The Secretary shall publish proposed regulations relating to the implementation of the summer food program by January 1 of each fiscal year, and shall publish final regulations, guidelines, applications, and handbooks by March 1 of each fiscal year. In order to improve program planning, the Secretary is authorized to provide that service institutions receive as startup costs not to exceed 10 per centum of the Federal funds provided such service institutions for meals served pursuant to this section during the preceding summer. Any such startup costs shall be subtracted from payments subsequently made to service institutions for meals served pursuant to subsection (b) of this section.

(g) Each participating service institution shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the institution area, or foods donated by the Secretary. Irrespective of the amount of funds appropriated under this section, foods available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1) shall be donated by the Secretary to service institutions in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs.

(h) If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any service institution in the State, the Secretary shall disburse the funds directly to service institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.

(i) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(j) There is hereby authorized to be appropriated such sums as may be necessary for the Secretary's administrative expenses under this section.

(k) The Secretary shall pay to each State for administrative costs incurred pursuant to this section an amount equal to 2 per centum of the funds distributed to that State pursuant to subsection (b): Provided, That no State shall receive less than \$10,000 each fiscal year for its administrative costs unless the funds distributed to that State pursuant to subsection (b) total less than \$50,000 for such fiscal year.

(l) Nothing in this section shall be construed as precluding a service institution from contracting on a competitive basis for the furnishing of meals or administration of the program, or both.

TEMPORARY EMERGENCY ASSISTANCE TO PROVIDE NUTRITIOUS MEALS TO NEEDY CHILDREN IN SCHOOLS

SEC. 13A. Notwithstanding any other provision of law, under such terms and conditions as he deems in the public interest, the Secretary of Agriculture is authorized to use an additional amount, not to exceed \$30,000,000, of funds from section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to supplement funds heretofore made available to

carry out programs during the fiscal year 1970 to improve the nutrition of needy children in public and nonprofit private schools participating in the national school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966.

COMMODITY DISTRIBUTION PROGRAM

SEC. 14. (a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending [June 30, 1975] *September 30, 1977*, shall—

(1) use funds available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section, for donation to maintain the annually programmed level of assistance for programs carried on under this Act, the Child Nutrition Act of 1966, and title VII of the Older Americans Act of 1965; and

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation.

(b) *Among the products to be included in the food donations to the school lunch program shall be such cereal and shortening and oil products as were provided in the fiscal year 1974. Such products shall be provided to the school lunch program in the same or greater quantities as were provided in the fiscal year 1974 and shall be in addition to the value of commodity donations, or cash in lieu thereof, as provided for in section 6 of this Act.*

NATIONAL ADVISORY COUNCIL

SEC. 15. (a) There is hereby established a council to be known as the National Advisory Council on Child Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of fifteen members appointed by the Secretary. One member shall be a school administrator, one member shall be a person engaged in child welfare work, one member shall be a person engaged in vocational education work, one member shall be a nutrition expert, one member shall be a school food service management expert, one member shall be a State superintendent of schools (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in a rural area, one member shall be a State school lunch director (or the equivalent thereof), one member shall be a person serving on a school board, one member shall be a classroom teacher, and four members shall be officers or employees of the Department of Agriculture specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to child food programs.

(b) The eleven members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of three years, except that nine members first appointed to the Council shall be appointed as follows: Three members shall be appointed for terms of three years, three members shall be appointed for terms of two years, and three members shall be appointed for terms of one year. Thereafter all appointments shall be for a term of three years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary.

(c) The Secretary shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Council.

(d) The Council shall meet at the call of the Chairman but shall meet at least once a year.

(e) Eight members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

(f) It shall be the function of the Council to make a continuing study of the operation of programs carried out under the National School Lunch Act, the Child Nutrition Act of 1966, and any related Act under which meals are provided for children, with a view to determining how such programs may be improved. The Council shall submit to the President and the Congress annually a written report of the results of its study together with such recommendations for administrative and legislative changes as it deems appropriate.

(g) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions under this Act.

(h) Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council.

Sec. 15. (a) In addition to funds appropriated or otherwise available, the Secretary is authorized to use, during the fiscal year ending June 30, 1971, not to exceed \$35,000,000 in funds from section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to carry out the provisions of this Act, and during the fiscal year ending June 30, 1972, not to exceed \$100,000,000 in funds from such section 32 to carry out the provisions of this Act relating to the service of free and reduced-price meals to needy children in schools and service institutions.

(b) Any funds unexpended under this section at the end of the fiscal year ending June 30, 1971, or at the end of the fiscal year ending June 30, 1972, shall remain available to the Secretary in accordance with the last sentence of section 3 of this Act, as amended.

Sec. 16. (a) Notwithstanding any other provision of law, where a State phased out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this Act and the Child Nutrition Act of 1966, elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by section 6(e) of this Act.

(b) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural commodities and other foods for their food service programs.

CHILD CARE FOOD PROGRAM

Sec. 17. (a) (1) There is hereby authorized to be appropriated such sums as are necessary for the fiscal year ending June 30, 1976, the period July 1, 1976, through September 30, 1976, and the fiscal year ending September 30, 1977, to enable the Secretary to formulate and carry out a program to assist States through grants-in-aid and other means to initiate, maintain, or expand nonprofit food service programs for children in institutions providing child care.

(2) For purposes of this section, the term "institution" means any public or private nonprofit organization where children are not maintained in permanent residence including, but not limited to, day care centers, settlement houses, recreation centers, family day care programs, Head Start centers, Homestart programs, and institutions providing day care services for handicapped children. No institution shall be eligible to participate in this program unless it has either local, State, or Federal licensing or approval as a child care institution, or can satisfy the Secretary that its standards are no less comprehensive than the Federal interagency day care requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968. An institution may be approved for funding under this section only if, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1954, or is currently operating a federally funded program requiring nonprofit status. For purposes of this section, the term "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands. Any eligible institution shall receive the child care food program upon its request.

(b) For each fiscal year beginning with the fiscal year ending June 30, 1976, the Secretary shall make child care food payments no less frequently than on a monthly basis to each State educational agency in an amount no less than the sum of the products obtained by multiplying (A) the number of breakfasts served in child care food programs within that State by the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966, (B) the number of breakfasts served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for free school meals by the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966, (C) the number of breakfasts served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for reduced price school meals by the national average payment rate for reduced price school breakfasts under section 4 of the Child Nutrition Act of 1966, (D) the number of lunches and suppers served

in child care food programs within that State by the national average payment rate for lunches under section 4 of the National School Lunch Act, (E) the number of lunches and suppers served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for free school meals by the national average payment rate for free school lunches under section 11 of the National School Lunch Act, (F) the number of lunches and suppers served in child care food programs in that State to children whose families meet the eligibility criteria for reduced price school meals by the national average payment factor for reduced price lunches under section 11 of the National School Lunch Act, (G) the number of snacks served in child care food programs in that State by 5 cents, (H) the number of snacks served in child care food programs in that State to children from families whose incomes meet the eligibility criteria for free school meals by 15 cents, and (I) the number of snacks served in child care food programs in that State to children from families whose incomes meet the eligibility criteria for reduced price school meals by 10 cents. The rates established pursuant to clauses (G), (H), and (I) shall be adjusted semi-annually to the nearest one-fourth cent by the Secretary to reflect the changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The initial such adjustment shall become effective January 1, 1976, and shall reflect changes in the series for food away from home during the period June through November 1975. Reimbursement for meals provided under this section shall not be dependent upon the collection of moneys from participating children.

(c) Meals served by institutions participating in the program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served free to needy children. No physical segregation or other discrimination against any child shall be made because of his inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or other means. No institution shall be prohibited from serving a breakfast, lunch, dinner, and snack to each eligible child each day.

(d) Funds paid to any State under this section shall be disbursed by the State educational agency to institutions approved for participation on a nondiscriminatory basis to reimburse such institutions for their costs in connection with food service operations, including labor and administrative expenses. All valid claims from such institutions shall be paid within 30 days.

(e) Irrespective of the amount of funds appropriated under this section, foods available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1), shall be donated by the Secretary of Agriculture to institutions participating in the child care food program in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs. The amount of such commodities donated to each State for each fiscal year shall

be, at a minimum, the amount obtained by multiplying the number of lunches served in participating institutions during that fiscal year by the rate for commodities and cash in lieu thereof established for that fiscal year in accordance with the provisions of section 6(e) of the National School Lunch Act.

(f) If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any institution in the State, the Secretary shall disburse the funds so withheld directly to service institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.

(g) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(h) There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary for the Secretary's administrative expenses under this section.

(i) States, State educational agencies, and institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of 5 years, as the Secretary determines is necessary.

(j) (1) Of the sums appropriated for any fiscal year pursuant to the authorization contained in this section, \$3,000,000 shall be available to the Secretary for the purpose of providing, during each such fiscal year, nonfood assistance for the child care food program. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of \$3,000,000: Provided, That such an apportionment shall be made according to the ratio among the States of the number of children below age 6 who are members of households which have an annual income not above 125 per centum of the applicable family-size income level set forth in the income poverty guideline prescribed by the Secretary under section 9(b) of this Act.

(2) If any State cannot utilize all of the funds apportioned to it under the provisions of this section, the Secretary shall make further apportionments to the remaining States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this section shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this section to assist institutions determined by the State to be especially needy.

(k) The regulations issued by the Secretary to carry out this section shall be issued and become effective not later than 90 days after enactment. During the period prior to the effective date of the regulations, the Secretary is authorized to conduct a food service program in the same manner and under the same conditions and limitations as the special food service program for children was conducted under section

13 of the National School Lunch Act during the fiscal year ending June 30, 1975.

EXPANSION OF PROGRAMS

Sec. 18. As a national nutrition and health policy, it is the purpose and intent of the Congress that the summer food service program and the child care food program be made available in all service institutions where it is needed to provide adequate nutrition for children in attendance. The Secretary is hereby directed, in cooperation with the State educational and child-care agencies, to carry out a program of information in furtherance of this policy. Within 6 months after the enactment of this section, the Secretary shall report to the committees of jurisdiction in the Congress his plans and those of the cooperating State agencies to bring about the needed expansion in the summer food service program and the child care food program.

NUTRITION PROGRAM STAFF STUDY

Sec. 19. The Secretary is authorized to carry out a study to determine how States are utilizing Federal funds provided to them for the administration of the child nutrition programs authorized by this Act and the Child Nutrition Act of 1966, and to determine the level of funds needed by the States for administrative purposes. The study shall report on the current size and structure of State staffs, job descriptions and classifications, training provided to such staff, representation of minorities on staffs, and the allocation of staff time, training time, and Federal administrative dollars spent among each of the various child nutrition programs. The study shall assess State needs for additional staff positions, training, and funds, for each of the above areas, including additional State needs to implement adequately the provisions of this Act and the Child Nutrition Act of 1966. The study shall also determine State staffing needs and training program support required to conduct effective outreach for the purpose of reaching the maximum number of eligible children in the summer food service program and the child care food program. As part of this study, the Secretary shall also examine the degree and cause of plate waste in the school lunch program. The Secretary shall examine possible relationships between plate waste and (1) lack of adequate menu development, (2) the service of competitive foods, and (3) the nature of the type A lunch pattern. The Secretary shall review the study design with the appropriate congressional committees prior to its implementation, and shall report his findings together with any recommendations he may have with respect to additional legislation, to the Congress no later than March 1, 1975.

APPROPRIATIONS FOR THE TRUST TERRITORY OF THE PACIFIC ISLANDS

Sec. 20. There is hereby authorized to be appropriated (a) for each of the fiscal years beginning July 1, 1975, and October 1, 1976, the sum of \$500,000 and (b) for the period July 1, 1976, through September 30, 1976, the sum of \$125,000, to enable the Secretary to assist the Trust Territory of the Pacific Islands to carry out various developmental and experimental projects relating to programs authorized under this Act and the Child Nutrition Act of 1966 to (1) establish or improve the or-

ganizational, administrative, and operational structures and systems at the State and local school levels; (2) develop and conduct necessary training programs for school food service personnel; (3) conduct a thorough study of the children's food and dietary habits upon which special meal and nutritional requirements can be developed; and (4) establish and maintain viable school food services which are fully responsive to the needs of the children, and which are consistent with the range of child nutrition programs available to the other States, to the maximum extent possible.

CHILD NUTRITION ACT OF 1966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Nutrition Act of 1966".

DECLARATION OF PURPOSE

SEC. 2. In recognition of the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn, based on the years of cumulative successful experience under the national school lunch program with its significant contributions in the field of applied nutrition research, it is hereby declared to be the policy of Congress that these efforts shall be extended, expanded, and strengthened under the authority of the Secretary of Agriculture as a measure to safeguard the health and well-being of the Nation's children, and to encourage the domestic consumption of agricultural and other foods, by assisting States, through grants-in-aid and other means, to meet more effectively the nutritional needs of our children.

SPECIAL MILK PROGRAM AUTHORIZATION

SEC. 3. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) non profit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. For the purposes of this section "United States" means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the District of Columbia. The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided for by Public Law 89-642, as amended, during the fiscal year ending June 30, 1969. Any school or nonprofit child care institution shall receive the special milk program upon their request. Children that qualify for free lunches under guidelines set forth by the Secretary shall also be eligible for free milk. For the fiscal year ending June 30, 1975, and for subsequent fiscal years, the minimum rate of reimbursement for a half-pint of

milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each fiscal year thereafter, beginning with the fiscal year ending June 30, 1976, to reflect changes in the series of food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. *Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children.*

SCHOOL BREAKFAST PROGRAM AUTHORIZATION

SEC. 4. (a) There is hereby authorized to be appropriated such sums as are necessary for the fiscal years ending June 30, 1973, June 30, 1974, [and June 30, 1975.] *June 30, 1975, and June 30, 1976, and for the period July 1, 1976, through September 30, 1976, and for the fiscal year ending September 30, 1977,* to enable the Secretary to carry out a program to assist the States through grants-in-aid and other means to initiate, maintain, or expand nonprofit breakfast programs in all schools which make application for assistance and agree to carry out a nonprofit breakfast program in accordance with this Act. Appropriations and expenditures for this Act shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

APPORTIONMENT TO STATES

(b) Of the funds appropriated for the purposes of this section, the Secretary shall for the fiscal year ending June 30, 1973, (1) apportion \$2,600,000 equally among the States other than Guam, the Virgin Islands, [and American Samoa] *American Samoa, and the Trust Territory of the Pacific Islands,* and \$45,000 equally among Guam, the Virgin Islands, [and American Samoa] *American Samoa, and the Trust Territory of the Pacific Islands,* and (2) apportion the remainder among the States in accordance with the apportionment formula contained in section 4 of the National School Lunch Act, as amended. For each fiscal year beginning with the fiscal year ending June 30, 1974, the Secretary shall make breakfast assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by (1) multiplying the number of breakfasts (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection (e) of this section) served during such fiscal year to children in schools in such States which participate in the breakfast program under this section under agreements with such State educational agency by a national average breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; (2) multiplying the number of such breakfasts served free to children eligible for free breakfasts in such schools during such fiscal year by a national average free breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; and (3) multiply-

ing the number of reduced price breakfasts served to children eligible for reduced price breakfasts in such schools during such fiscal year by a national average reduced price breakfast payment prescribed by the Secretary for such fiscal year to carry out the provisions of this section: *Provided*, That in any fiscal year the aggregate amount of the breakfast assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State educational agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section. The national average payment established by the Secretary for all breakfasts served to eligible children shall not be less than 8 cents; an amount of not less than 15 cents shall be added for each reduced-price breakfast; and an amount of not less than 20 cents shall be added for each free breakfast. In cases of severe need, a payment of up to 45 cents may be made for each breakfast served to children qualifying for a free breakfast.

STATE DISBURSEMENT TO SCHOOLS

(c) Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to schools selected by the State educational agency to assist such schools in financing the costs of operating a breakfast program and for the purpose of subsection (d). Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools for participation, the State educational agency shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools in which a substantial proportion of the children enrolled must travel long distances daily, and to those schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families. Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

(d) In circumstances of severe need where the rate per meal established by the Secretary is deemed by him insufficient to carry on an effective breakfast program in a school, the Secretary may authorize financial assistance up to 100 per centum of the operating costs of such a program, including cost of obtaining, preparing, and serving food. In the selection of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance.

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

(e) Breakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such breakfasts shall be served free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 9 of the National School Lunch Act.

NONPROFIT PRIVATE SCHOOLS

(f) For the fiscal year ending June 30, 1973, any withholding of funds for and disbursement to nonprofit private schools shall be effected in the manner used prior to such fiscal year. Beginning with the fiscal year ending June 30, 1974, the Secretary shall make payments from the sums appropriated for any fiscal year for the purposes of this section directly to the [nonprofit private schools] schools (as defined in section 15(c) of this Act which are private and nonprofit as defined in the last sentence of section 15(c) of this Act) within a State, that participate in the breakfast program under an agreement with the Secretary, for the same purposes and subject to the same conditions as are authorized or required under this section with respect to the disbursements by State educational agencies.

(g) *As a national nutrition and health policy, it is the purpose and intent of the Congress that the school breakfast program be made available in all schools where it is needed to provide adequate nutrition for children in attendance. The Secretary is hereby directed, in cooperation with State educational agencies, to carry out a program of information in furtherance of this policy. Within 6 months after the enactment of this subsection, the Secretary shall report to the committees of jurisdiction in the Congress his plans and those of the cooperating State agencies to bring about the needed expansion in the school breakfast program.*

NONFOOD ASSISTANCE PROGRAM AUTHORIZATION

SEC. 5. (a) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1971, not to exceed \$38,000,000 for the fiscal year ending June 30, 1972, not to exceed \$33,000,000, for each of the three fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, not to exceed \$40,000,000 and for each succeeding fiscal year, not to exceed \$40,000,000, to enable the Secretary to formulate and carry out a program to assist the States through grants-in-aid and other means to supply schools drawing attendance from areas in which poor economic conditions exist with equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand school food service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this Act and in the National School Lunch Act, as amended, and in the event such equipment is no longer so used, it may be transferred to another nonprofit private school participating in any of such programs or to a public school participating in any of such programs, or, failing either of these dispositions, that part of such equipment financed with Federal funds, or the residual value thereof, shall revert to the United States.

APPORTIONMENT TO STATES

(b) Except for the funds reserved under subsection (e) of this section, the Secretary shall apportion the funds appropriated for the purposes of this section among the States on the basis of the ratio that the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secre-

tary pursuant to section 9 of the National School Lunch Act) served in each State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are apportioned bears to the total number of such lunches served in all States in such preceding fiscal year. If any State cannot utilize all of the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionments to the remaining States in the manner set forth in this subsection for apportioning funds among all the States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be borne by funds from sources within the State^[1], *except that such conditions shall not apply with respect to funds used under this section to assist schools if such schools are especially needy, as determined by the State.*

STATE DISBURSEMENT TO SCHOOLS

(c) Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to assist schools, which draw attendance from areas in which poor economic conditions exist and which have no, or grossly inadequate, equipment, to conduct a school food service program, and to acquire such equipment. In the selection of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance and the inability of the school to finance the food service equipment needed. Disbursements to any school may be made, by advances or reimbursements, only after approval by the State educational agency of a request by the school for funds, accompanied by a detailed description of the equipment to be acquired and the plans for the use thereof in effectively meeting the nutritional needs of children in the school.

NONPROFIT PRIVATE SCHOOLS

(d) If, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in nonprofit private schools within the State, the Secretary shall administer such program in such private schools. In such event, the Secretary shall withhold from the funds apportioned to any such State under the provisions of subsection (b) of this section an amount which bears the same ratio to such funds as the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 9(a) of the National School Lunch Act) served in nonprofit private schools in such State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of such lunches served in all schools within such State in such preceding fiscal year.

[Note. The changes in the following section are effective beginning with the fiscal year ending June 30, 1976.]

RESERVE OF FUNDS

[(e) In each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, 50 per centum of the funds appropriated for the purposes of this section shall be reserved by the Secretary to assist schools without a food service. The Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children enrolled in schools without a food service in the State for the latest fiscal year for which the Secretary determines data are available at the time such funds are apportioned to the total number of children enrolled in schools without a food service in all States in such fiscal year. In those States in which the Secretary administers the nonfood assistance program in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service in such State for the latest fiscal year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of children enrolled in all schools without food service in such State in such fiscal year. The funds reserved, apportioned, and withheld under the authority of this subsection shall be used by State educational agencies, or the Secretary in the case of nonprofit private schools, only to assist schools without a food service. If any State cannot utilize all the funds apportioned to it under the provisions of this subsection to assist schools in the State without a food service, the Secretary shall make further apportionments to the remaining States in the same manner set forth in this subsection for apportioning funds among all the States and such remaining States, or the Secretary in the case of nonprofit private schools, shall use the additional funds so apportioned or withheld only to assist schools in the State without a food service. Payments to any State of the funds apportioned under the provisions of this paragraph shall be made upon condition that at least one-fourth of the cost of equipment financed shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this section to assist schools without food service if such schools are especially needy, as determined by the State.]

(e) *For the fiscal year ending June 30, 1976, the period July 1, 1976, through September 30, 1976, and the fiscal year ending September 30, 1977, 33½ per centum of the funds appropriated for the purposes of this section shall be reserved to the Secretary to assist schools without a food service program and schools without the facilities to prepare or receive hot meals. For the fiscal year ending June 30, 1976, the Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program to the number of children in all States enrolled in schools without a food service program. After the fiscal year ending June 30, 1976, the Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program and in schools without the facilities to prepare or receive hot meals to the number of children*

in all States enrolled in schools without a food service program and in schools without the facilities to prepare or receive hot meals. In those States in which the Secretary administers the nonfood assistance program in nonprofit private schools, the Secretary shall, for the fiscal year ending June 30, 1976, withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program in such State bears to the total number of children enrolled in all schools without a food service program in such State. In those States in which the Secretary administers the nonfood assistance program in nonprofit private schools, the Secretary shall, after the fiscal year ending June 30, 1976, withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program or without the facilities to prepare or receive hot meals in such State bears to the total number of children enrolled in all schools without a food service program or without the facilities to prepare or receive hot meals in such State. The funds so reserved, apportioned, and withheld shall be used by State educational agencies, or the Secretary in the case of nonprofit private schools, only to assist schools without a food service program and schools without the facilities to prepare or receive hot meals. If any State cannot so utilize all the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionments to the remaining States for use only in assisting schools without a food service program and schools without the facilities to prepare or receive hot meals: Provided, That if after such further apportionments any funds reserved under this subsection remain unused, the Secretary shall immediately apportion such funds among the States in accordance with the provisions of subsection (b) of this section to assist schools with a food service program and with the facilities to prepare or receive hot meals. Payment to any State of the funds provided to it under the provisions of this subsection shall be made upon the condition that at least one-fourth of the cost of the equipment financed shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this subsection to assist schools which are especially needy, as determined by the State.

PAYMENTS TO STATES

SEC. 6. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under sections 3 through 7 of this Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

STATE ADMINISTRATIVE EXPENSES

SEC. 7. The Secretary may utilize funds appropriated under this section for advances to each State educational agency for use for its administrative expenses or for the administrative expenses of any other designated State agency in supervising and giving technical

assistance to the local school districts and service institutions in their conducting of programs under this Act and under sections 11 and 13 of the National School Lunch Act. Such funds shall be advanced only in amounts and to the extent determined necessary by the Secretary to assist such State agencies in the administration of additional activities undertaken by them under sections 11 and 13 of the National School Lunch Act, as amended, and sections 4 and 5 of this Act. There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.

UTILIZATION OF FOODS

SEC. 8. Each school participating under section 4 of this Act shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or foods donated by the Secretary. Foods available under section 416 of the Agricultural Act of 1949 (63 Stat. 1058), as amended, or purchased under section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, or section 709 of the Food and Agriculture Act of 1965 (79 Stat. 1212), may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this Act.

NONPROFIT PROGRAMS

SEC. 9. The food and milk service programs in schools and nonprofit institutions receiving assistance under this Act shall be conducted on a nonprofit basis.

REGULATIONS

SEC. 10. The Secretary shall prescribe such regulations as he may deem necessary to carry out this Act and the National School Lunch Act, including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this Act and the National School Lunch Act. Such regulations shall not prohibit the sale of competitive foods in food service facilities or areas during the time of service of food under this Act or the National School Lunch Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools. In such regulations the Secretary may provide for the transfer of funds by any State between the programs authorized under this Act and the National School Lunch Act on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects.

PROHIBITIONS

SEC. 11. (a) In carrying out the provisions of sections 3 through 5 of this Act, neither the Secretary nor the State shall impose any requirements with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction.

(b) The value of assistance to children under this Act shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to taxation, welfare, and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this Act.

PRESCHOOL PROGRAMS

SEC. 12. The Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system.

CENTRALIZATION OF ADMINISTRATION

SEC. 13. Authority for the conduct and supervision of Federal programs to assist schools in providing food service programs for children is assigned to the Department of Agriculture. To the extent practicable, other Federal agencies administering programs under which funds are to be provided to schools for such assistance shall transfer such funds to the Department of Agriculture for distribution through the administrative channels and in accordance with the standards established under this Act and the National School Lunch Act.

APPROPRIATION FOR ADMINISTRATIVE EXPENSE

SEC. 14. There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for his administrative expense under this Act.

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 15. For the purposes of this Act—

(a) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, [or] American Samoa, or the Trust Territory of the Pacific Islands.

(b) "State educational agency" means, as the State legislature may determine, (1) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (2) a board of education controlling the State department of education.

[(c) "Nonprofit private school" means any private school exempt from income tax under section 501(c)(?) of the Internal Revenue Code of 1954.]

[(d)](e) "School" means [any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school and, with respect to Puerto Rico, shall also include nonprofit child-care centers certified as such by the Governor of Puerto Rico] (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school. (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded), and (C) with re-

spect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.

[(e)](d) "Secretary" means the Secretary of Agriculture.

ACCOUNTS AND RECORDS

SEC. 16. States, State educational agencies, schools, and nonprofit institutions participating in programs under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this Act and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of three years, as the Secretary determines is necessary.

[Note. The changes made in the section below are effective beginning with the fiscal year ending June 30, 1976.]

SPECIAL SUPPLEMENTAL FOOD PROGRAM

[Sec. 17. (a) During each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, and for the period July 1, 1975, through September 30, 1975, the Secretary shall make cash grants to the health department or comparable agency of each State; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare for the purpose of providing funds to local health or welfare agencies or private nonprofit agencies of such State; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare serving local health or welfare needs to enable such agencies to carry out a program under which supplemental foods will be made available to pregnant or lactating women and to infants determined by competent professionals to be nutritional risks because of inadequate nutrition and inadequate income. Such program shall be operated for a three-year period and may be carried out in any area of the United States without regard to whether a food stamp program or a direct food distribution program is in effect in such area.

[(b) In order to carry out the program provided for under subsection (a) of this section during the fiscal year ending June 30, 1973, the Secretary shall use \$20,000,000 out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)). In order to carry out such program during the fiscal year ending June 30, 1974, there is authorized to be appropriated the sum of \$20,000,000, but in the event that such sum has not been appropriated for such purpose by August 1, 1973, the Secretary shall use \$20,000,000, or, if any amount has been appropriated for such program, the difference, if any between the amount directly appropriated for such purpose and \$20,000,000, out of funds appropriated by section 32 of the Act of

August 24, 1935 (7 U.S.C. 612(c)). In order to carry out such program during the fiscal year ending June 30, 1975, and for the period July 1, 1975, through September 30, 1975, there is authorized to be appropriated the sum of \$100,000,000, but in the event that such sum has not been appropriated for such purpose by August 1, 1974, the Secretary shall use \$100,000,000, or, if any amount has been appropriated for such program, the difference, if any, between the amount directly appropriated for such purpose and \$100,000,000, out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)). Any funds expended from such section 32 to carry out the provisions of subsection (a) of this section shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out the provisions of such subsection, and such reimbursements shall be deposited into the fund established pursuant to such section 32, to be available for the purpose of such section.

[(c) Whenever any program is carried out by the Secretary under authority of this section through any State or local or nonprofit agency, he is authorized to pay administrative costs not to exceed 10 per centum of the Federal funds provided under the authority of this section.

[(d) The eligibility of persons to participate in the program provided for under subsection (a) of this section shall be determined by competent professional authority. Participants shall be residents of areas served by clinics or other health facilities determined to have significant numbers of infants and pregnant and lactating women at nutritional risk.

[(e) State or local agencies or groups carrying out any program under this section shall maintain adequate medical records on the participants assisted to enable the Secretary to determine and evaluate the benefits of the nutritional assistance provided under this section. The Secretary and Comptroller General of the United States shall submit preliminary evaluation reports to the Congress not later than October 1, 1974; and not later than March 30, 1975, submit reports containing an evaluation of the program provided under this section and making recommendations with regard to its continuation.

[(f) As used in this section—

(1) "Pregnant and lactating women" when used in connection with the term "at nutrition risk" includes mothers from low-income populations who demonstrate one or more of the following characteristics: known inadequate nutritional patterns, unacceptably high incidence of anemia, high prematurity rates, or inadequate patterns of growth (underweight, obesity, or stunting). Such term (when used in connection with the term "at nutritional risk") also includes low-income individuals who have a history of high-risk pregnancy as evidenced by abortion, premature birth, or severe anemia.

[(2) "Infants" when used in connection with the term "at nutritional risk" means children under four years of age who are in low-income populations which have shown a deficient pattern of growth, by minimally acceptable standards, as reflected by an excess number of children in the lower percentiles of height and weight. Such term, when used in connection with "at nutritional

risk". may also include (at the discretion of the Secretary) children under four years of age who (A) are in the parameter of nutritional anemia, or (B) are from low-income populations where nutritional studies have shown inadequate infant diets.

[(3) "Supplemental foods" shall mean those foods containing nutrients known to be lacking in the diets of populations at nutritional risks and, in particular, those foods and food products containing high-quality protein, iron, calcium, vitamin A, and vitamin C. Such term may also include (at the discretion of the Secretary) any food product commercially formulated preparation specifically designed for infants.

[(4) "Competent professional authority" includes physicians, nutritionists, registered nurses, dieticians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials as being competent professionally to evaluate nutritional risk.]

Sec. 17. (a) The Congress finds that substantial numbers of pregnant women, infants, and young children are at special risk in respect to their physical and mental health by reason of poor or inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide supplemental nutritious food as an adjunct to good health care during such critical times of growth and development in order to prevent the occurrence of health problems.

(b) During the fiscal year ending June 30, 1976, the period July 1, 1976, through September 30, 1976, and the fiscal year ending September 30, 1977, the Secretary shall make cash grants to the health department or comparable agency of each State, Indian tribe, band or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare for the purpose of providing funds to local health or welfare agencies or private nonprofit agencies of such State; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare, serving local health or welfare needs to enable such agencies to carry out health and nutrition programs under which supplemental foods will be made available to pregnant or lactating women and to infants determined by competent professionals to be nutritional risks because of inadequate nutrition and inadequate income, in order to improve their health status. The program authorized by this section shall be carried out supplementary to the food stamp and food distribution program and operate side by side with existing supplemental food programs.

(c) In order to carry out such program during each fiscal year, there is authorized to be appropriated the sum of \$250,000,000, but in the event that such sum has not been appropriated for such purpose by the beginning of each fiscal year, the Secretary shall use \$250,000,000, or, if any amount has been appropriated for such program, the difference, if any, between the amount directly appropriated for such purpose and \$250,000,000, out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c). Any funds expended from such section 32 to carry out the provisions of this section shall be reimbursed out of any supplemental appropriation hereafter enacted

for the purpose of carrying out the provisions of such subsection, and such reimbursements shall be deposited into the fund established pursuant to such section 32, to be available for the purpose.

(d) Whenever any program is carried out by the Secretary under authority of this section through any State or local or nonprofit agency, he is authorized to pay administrative costs not to exceed 20 per centum of the program funds provided to each State under the authority of this section. Each health department or comparable agency of each State, Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare receiving funds from the Secretary under this section shall, by January 1 of each year (by October 1 in the case of fiscal year 1976), for approval by the Secretary as a prerequisite to receipt of funds under this section, submit a description of the manner in which administrative funds shall be spent, including, but not limited to, a description of the manner in which nutrition education services will be provided. The Secretary shall take affirmative action to insure that programs begin in areas most in need of special supplemental food. Notwithstanding the limitation in the first sentence of this subsection, during the first 3 months of any program, or until the program reaches its projected caseload level, whichever comes first, the Secretary shall pay those administrative costs necessary to commence the program successfully.

(e) The eligibility of persons to participate in the program provided for under this section shall be determined by competent professional authority. Participants shall be residents of areas or members of populations served by clinics or other health facilities determined to have significant numbers of infants and pregnant and lactating women at nutritional risk.

(f) State or local agencies or groups carrying out any programs under this section shall maintain adequate medical records on the participants assisted to enable the Secretary to determine and evaluate the benefits of the nutritional assistance provided under this section. The Secretary shall convene an advisory committee made up of representatives from the Maternal and Child Health Division of the Department of Health, Education, and Welfare, the Center for Disease Control, the Association of State and Territorial Public Health Nutrition Directors, the American Academy of Pediatrics, the National Academy of Science—National Research Council, the American Dietetic Association, the American Public Health Association, the Public Health Service, and others as the Secretary deems appropriate. The committee shall study the methods available to evaluate successfully and economically, in part or in total, the health benefits of the special supplemental food program. The committee's study shall consider the usefulness of the medical data collected and the methodology used by the Department of Agriculture and the Comptroller General of the United States prior to March 30, 1975. The study shall also include the applicability to an evaluation of the special supplemental food program of other Federal and State health, welfare, and nutrition assessment and surveillance projects currently being conducted. The purpose of the advisory committee shall be to determine and recommend in detail how, using accepted scientific methods, the health

benefits of the special supplemental food program may best be evaluated and assessed. The advisory committee shall report its study to the Secretary no later than December 1, 1975. The Secretary shall submit to Congress his recommendations based on such study no later than March 1, 1976.

(g) As used in this section—

(1) "Pregnant and lactating women" when used in connection with the term "at nutritional risk" includes women from low-income populations who demonstrate one or more of the following characteristics: known inadequate nutritional patterns, unacceptably high incidence of anemia, high prematurity rates, or inadequate patterns of growth (underweight, obesity, or stunting). Such term (when used in connection with the term "at nutritional risk") also includes low-income individuals who have a history of high-risk pregnancy as evidenced by abortion, premature birth, or severe anemia.

(2) "Infants" when used in connection with the term "at nutritional risk" means children under 4 years of age who are in low-income populations which have shown a deficient pattern of growth, by minimally acceptable standards, as reflected by an excess number of children in the lower percentiles of height and weight. Such term, when used in connection with "at nutritional risk", may also include children under 4 years of age who (A) are in the parameter of nutritional anemia, or (B) are from low-income populations where nutritional studies have shown inadequate infant diets.

(3) "Supplemental foods" shall mean those foods containing nutrients known to be lacking in the diets of populations at nutritional risks and, in particular, those foods and food products containing high-quality protein, iron, calcium, vitamin A, and vitamin C. Such term may also include (at the discretion of the Secretary) any commercially formulated preparation specifically designed for women or infants. The contents of the food package shall be made available in such a manner as to provide flexibility, taking into account medical and nutritional objectives and cultural eating patterns.

(4) "Competent professional authority" includes physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials as being competent professionally to evaluate nutritional risk.

(5) "Administrative costs" include costs for referral, operation, monitoring, nutrition education, general administration, startup, clinic, and administration of the State office.

(h) (1) There is hereby established a Council to be known as the National Advisory Council on Maternal, Infant, and Fetal Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of 15 members appointed by the Secretary. One member shall be a State director of the special supplemental food program, 1 member shall be a State fiscal director for the special supplemental food program (or the equivalent thereof), 1 member shall be a State health officer (or equivalent thereof), 1 member shall be a project director of a special supplemental food program in an urban area, 1 member shall be a project director of a special supplemental food program in a rural area, 1 member shall be a State public health nutrition

director (or equivalent thereof), 2 members shall be parent recipients of the special supplemental food program, 1 member shall be a pediatrician, 1 member shall be an obstetrician, 1 member shall be a person involved at the retail sales level of food in the special supplemental food program, 2 members shall be officers or employees of the Department of Health, Education, and Welfare, specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to maternal, infant, and fetal nutrition, and 2 members shall be officers or employees of the Department of Agriculture, specially qualified because of their education, training, experience, and knowledge in matters relating to maternal, infant, and fetal nutrition.

(2) The 11 members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of 3 years, except that the 9 members first appointed to the Council shall be appointed as follows: Three members shall be appointed for terms of 3 years, 3 members shall be appointed for terms of 2 years, and 3 members shall be appointed for terms of 1 year. Thereafter all appointments shall be for a term of 3 years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary.

(3) The Secretary shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Council.

(4) The Council shall meet at the call of the Chairman but shall meet at least once a year.

(5) Eight members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

(6) It shall be the function of the Council to make a continuing study of the operation of the special supplemental food program and any related Act under which diet supplementation is provided to women, infants, and children, with a view to determining how such programs may be improved. The Council shall submit to the President and the Congress annually a written report of the results of its study together with such recommendations for administrative and legislative changes as it deems appropriate.

(7) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions under this Act.

(8) Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council.

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